

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	361.03	8.25	2.00	371.28	8.25	2.00	371.28	371.28
Personal Services	13,549,361	3,698,693	85,967	17,334,021	3,690,040	85,724	17,325,125	34,659,146
Operating Expenses	26,222,312	36,727,639	365,663	63,315,614	(5,716,574)	104,615	20,610,353	83,925,967
Equipment	85,504	11,121	0	96,625	11,121	0	96,625	193,250
Grants	1,036,769	273,888	0	1,310,657	293,866	0	1,330,635	2,641,292
Benefits & Claims	1,364,619	(264,619)	0	1,100,000	(264,619)	0	1,100,000	2,200,000
Transfers	0	0	0	0	0	0	0	0
Debt Service	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$42,258,565</b>	<b>\$40,446,722</b>	<b>\$451,630</b>	<b>\$83,156,917</b>	<b>(\$1,986,166)</b>	<b>\$190,339</b>	<b>\$40,462,738</b>	<b>\$123,619,655</b>
General Fund	3,546,942	172,902	(171,501)	3,548,343	158,712	(171,500)	3,534,154	7,082,497
State/Other Special	22,494,902	30,531,881	292,611	53,319,394	(7,106,365)	131,500	15,520,037	68,839,431
Federal Special	16,216,721	9,741,939	330,520	26,289,180	4,961,487	230,339	21,408,547	47,697,727
Proprietary	0	0	0	0	0	0	0	0
<b>Total Funds</b>	<b>\$42,258,565</b>	<b>\$40,446,722</b>	<b>\$451,630</b>	<b>\$83,156,917</b>	<b>(\$1,986,166)</b>	<b>\$190,339</b>	<b>\$40,462,738</b>	<b>\$123,619,655</b>

### Agency Description

The Department of Environmental Quality is responsible for regulating air quality, water quality, underground storage tanks, automobile wrecking facilities, hazardous waste facilities, solid waste management systems, and mining operations; and for siting and needs analyses of large-scale energy facilities. In addition, the department is the lead agency for reclamation and clean-up activities related to the federal and state superfund programs, leaking underground storage tanks, and regulation and permitting of mining conducted on private, state, and federal lands.

### Reorganization

The Executive Budget includes a request for an agency reorganization that would move the Montana Environmental Protection Act (MEPA) program to the Central Management Division. MEPA applies to the entire department with the director being the final decision maker. Thus, the executive decided to request a transfer of two FTE in the MEPA Unit from Program 50 to Program 10. There are no financial savings or additional costs from the creation of the unit in Program 10.

### Executive Recommended Legislation

The Executive Budget includes decision package requests that are contingent upon passage of legislation.

- Re-earmark Certain Funds - The executive has proposed legislation that would amend several state statutes and earmark portions of fines, fees, and penalties from activities in asbestos control, hazardous waste management, motor vehicle recycling, public water supply, underground mining, underground storage tank, subdivisions, and water quality. Funding would be deposited to a state special revenue fund and utilized in a general fund switch that would ultimately support legal contingencies and database development in the Central Management Program.
- Earmark Air Quality Funds - The executive has proposed legislation that would amend several state statutes to earmark portions of fines, fees, and penalties from air quality activities. Funding would be deposited to a state special revenue fund and utilized in a general fund switch that would ultimately support violation enforcement, evaluation, and investigation in the Enforcement Division.

For a further discussion of these issues, see the Central Management Program and the Enforcement Division narrative.

## Agency Discussion

<b>Department of Environmental Quality</b> <b>Major Budget Highlights</b>	
<ul style="list-style-type: none"> <li>○ The department requests present law adjustments totaling \$40.6 million in fiscal 2004 and a reduction of \$1.9 million in 2005 for a net gain of \$38.7 million over the biennium</li> <li>○ When compared to the approved budget from the 2001 legislative session, adjustments to general fund result in a decrease of \$1.1 million</li> <li>○ The largest request seeks spending authority of \$20.8 million for bond forfeitures</li> <li>○ Another significant request seeks spending authority of \$5.5 million state special revenue for mine reclamations with funding derived from the sale of general obligation bonds</li> <li>○ Other major present law adjustments include decision packages for “base adjustments” that total \$7.3 million over the biennium</li> <li>○ In addition to present law adjustments, the department is requesting 10 new proposals totaling \$451,630 in fiscal 2004 and \$190,339 in 2005</li> </ul>	
<b>Major LFD Issues</b>	
<ul style="list-style-type: none"> <li>○ Pay increases associated with pay plan 20 will cost the department \$2.5 million over the biennium</li> <li>○ Reductions to fund \$.6 million of these costs are short term in nature</li> <li>○ The executive is requesting \$7.3 million of “base” adjustments over the biennium. Many of these reductions are due to vacancies</li> <li>○ The executive is continuing with its database development project</li> <li>○ Ongoing maintenance costs are significant</li> <li>○ General fund support programs could be considered for reduction or elimination</li> </ul>	

## Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

<b>Total Agency Funding</b> <b>2005 Biennium Executive Budget</b>					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
Enforcement Division	\$ 832,988	\$ 429,910	\$ 663,288	\$ 1,926,186	1.6%
Central Management Program	554,640	1,731,987	914,711	3,201,338	2.6%
Plan.Prevent. & Assist.Div.	3,740,669	2,590,132	19,397,421	25,728,222	20.8%
Remediation Division	-	9,761,952	13,687,019	23,448,971	19.0%
Permitting & Compliance Div.	1,954,200	54,325,450	13,035,288	69,314,938	56.1%
Grand Total	<u>\$ 7,082,497</u>	<u>\$ 68,839,431</u>	<u>\$ 47,697,727</u>	<u>\$ 123,619,655</u>	<u>100.0%</u>

Over the 2005 biennium, proposed general fund usage represents approximately 5 percent of the department's total budget and 5.5 percent of the HB 2 budget. General fund usage would decline by \$1.1 million from the budget approved by the 2001 legislature.

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	Present Law Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Biennium Fiscal 02-03	Total Exec. Budget Fiscal 04-05
FTE	369.28	2.00	371.28	369.28	2.00	371.28	361.03	371.28
Personal Services	17,248,054	85,967	17,334,021	17,239,401	85,724	17,325,125	29,394,663	34,659,146
Operating Expenses	62,949,951	365,663	63,315,614	20,505,738	104,615	20,610,353	72,972,151	83,925,967
Equipment	96,625	0	96,625	96,625	0	96,625	270,990	193,250
Grants	1,310,657	0	1,310,657	1,330,635	0	1,330,635	2,570,140	2,641,292
Benefits & Claims	1,100,000	0	1,100,000	1,100,000	0	1,100,000	3,500,000	2,200,000
Transfers	0	0	0	0	0	0	0	0
Debt Service	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$82,705,287</b>	<b>\$451,630</b>	<b>\$83,156,917</b>	<b>\$40,272,399</b>	<b>\$190,339</b>	<b>\$40,462,738</b>	<b>\$108,707,944</b>	<b>\$123,619,655</b>
General Fund	3,719,844	(171,501)	3,548,343	3,705,654	(171,500)	3,534,154	7,479,706	7,082,497
State/Other Special	53,026,783	292,611	53,319,394	15,388,537	131,500	15,520,037	63,830,927	68,839,431
Federal Special	25,958,660	330,520	26,289,180	21,178,208	230,339	21,408,547	37,397,311	47,697,727
Proprietary	0	0	0	0	0	0	0	0
<b>Total Funds</b>	<b>\$82,705,287</b>	<b>\$451,630</b>	<b>\$83,156,917</b>	<b>\$40,272,399</b>	<b>\$190,339</b>	<b>\$40,462,738</b>	<b>\$108,707,944</b>	<b>\$123,619,655</b>

### New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	FTE	-----Fiscal 2004-----				-----Fiscal 2005-----				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 59 - NP-Homeland Security, Water System Security										
50	1.00	0	0	150,000	150,000	1.00	0	0	150,000	150,000
DP 62 - TFAB STAG Grant										
20	1.00	0	0	70,520	70,520	1.00	0	0	70,339	70,339
DP 65 - HWSC - UST Fields Site Billings Cleanup - OTO										
40	0.00	0	11,111	100,000	111,111	0.00	0	0	0	0
DP 200 - 10 MEPA Reorg from Prg 50										
10	3.00	123,125	1,000,000	0	1,123,125	3.00	123,052	0	0	123,052
DP 201 - 50 Move MEPA to Program 10										
50	(3.00)	(153,126)	(1,000,000)	0	(1,153,126)	(3.00)	(153,052)	0	0	(153,052)
DP 7029 - Solid Waste General Fund Reduction										
50	0.00	(40,000)	40,000	0	0	0.00	(40,000)	40,000	0	0
DP 7039 - Water Permits Funding Adjustments										
50	0.00	(36,500)	36,500	0	0	0.00	(36,500)	36,500	0	0
DP 8013 - Legal Contingency & Database Development										
10	0.00	0	150,000	0	150,000	0.00	0	0	0	0
DP 8013 - Enforcement Reduction & Fund Switch										
30	0.00	(65,000)	55,000	10,000	0	0.00	(65,000)	55,000	10,000	0
<b>Total</b>	<b>2.00</b>	<b>(\$171,501)</b>	<b>\$292,611</b>	<b>\$330,520</b>	<b>\$451,630</b>	<b>2.00</b>	<b>(\$171,500)</b>	<b>\$131,500</b>	<b>\$230,339</b>	<b>\$190,339</b>

### Agency Issues

#### *Alternative Pay Plan - Department-wide move to Pay Plan 20*

The department is one of several that recently adopted alternative classification and pay plan guidelines. The Montana Human Resources Competency Project (the Competency Project) was initiated by Governor Racicot's administration and approved by the 1997 legislature on the premise that it would provide a management tool to help state agencies respond to fast-changing human resource issues. The Competency Project provides an alternative classification and pay system with two concepts that provide agency management with increased human resource flexibility. These concepts are competencies and broadbanding.

Competencies are measurable and observable knowledge, skills, abilities, and behaviors that contribute to success in a job. The Broadband Plan (pay plan 20) is a two-tiered process of competencies and broad pay bands intended to provide agency flexibility. Broadbanding is a strategy for salary structure that consolidates a large number of pay grades into a few "broad bands."

The purpose of this pay plan was to develop a plan whereby employees and managers would have access to a mechanism to reward demonstrated competencies and service and to recruit and retain qualified employees. Citing authority given under 2-18-303, MCA, and employee turnover of up to 50 percent, the department began an agency-wide migration to pay plan 20 beginning with an increase in pay.

Although employees received a pay increase through HB 13, the department believed that its ability to recruit and retain qualified employees would be enhanced by increasing pay even more. In order to determine how much additional money to pay employees, the executive conducted a market survey using several widely used survey sources. Based upon that data--type of position, length of service, and other factors, such as historical turnover-- employees were given an additional pay increase.

Even though pay increases given as part of the Broadband Plan implementation will increase personal service costs, the Office of Budget and Program Planning (OBPP) indicated that they developed a plan to offset the Broadband Plan Pay increases. OBPP staff has indicated that the 2003 legislature could expect to see a method comparable to that used by the Department of Fish, Wildlife, and Parks (FWP) during the 2001 legislature to neutralize the fiscal impacts of broadbanding related pay increases. The method used by FWP involved a series of negative decision packages presented as part of the Executive Budget. These negative decision packages reduced base operation expenditures within the department by the amount of the increase in personal service costs attributable to market-based or compensation-based pay increases associated with the move to the Broadband Plan.

Similarly, the executive has used a series of negative decision packages to offset the cost of the move to pay plan 20. The following figure summarizes these decision packages by funding source. The final column shows how much of the total reduction was applied to personal services.

Figure 1  
Department of Environmental Quality  
Negative Decision Packages to Fund Alternative Pay Plan -- 2005 Biennium

		General	State Special	Federal	Proprietary	Total	Personal Services
<u>Central Management Program -- 10</u>							
Attorney Pool	PL 75	\$ 8,654	\$ 14,920	\$ 13,534		\$ 37,108	
CMP -- HB 576	PL 89				105,000	105,000	
<u>Planning, Prevention, and Assistance -- 20</u>							
Resource Planning	PL 5	203,544		39,184		242,728	126,590
Monitoring	PL 7	37,472	22,306	78,226		138,004	19,834
Pollution	PL 10		40,474	71,638		112,112	37,632
Technical	PL 12	2,500	22,542	217,540		242,582	97,280
<u>Program 30 -- Enforcement</u>							
Enforcement	PL 14	54,176	17,302	36,118		107,596	
<u>Program 40 Remediation</u>							
Hazardous Waste	PL 83		107,714	6,430		114,144	82,390
Mine Waste	PL 84		120,000			120,000	
Technical Services	PL 85		42,806	11,762		54,568	
Financial Assistance	PL 87		30,816	22,108		52,924	33,212
<u>Program 50 Permitting and Compliance</u>							
Permitting and Compliance	PL 18	87,260	974,080	143,312	-	1,204,652	326,188
Total Negative DP's to Fund Pay Plan 20		\$ 393,606	\$ 1,392,960	\$ 639,852	\$ 105,000	\$ 2,531,418	\$ 723,126

As figure 1 shows, the move to the alternative pay plan cost the executive \$2.5 million. However, unlike the methodology of permanently reducing operations expenses used by FWP, some of the decision packages used by the executive reduced personal services as part of the overall reduction. This differs from the method used by FWP in an important way - utilizing personal services as a reduction tool is not permanent. If approved, personal services authority would be reduced by \$0.7 million over the 2005 biennium. However, a snapshot of personal services will be taken before the 2007 biennium. At that time, the personal services budget will be fully funded based upon the pay attributes of all established FTE. Thus, any personal services authority that was reduced for the alternative pay plan will be fully funded for the 2007 biennium. This makes the proposed negative decision packages short-term in nature, unless actual FTE funded are reduced.

The analysis reveals several issues with the move to pay plan 20:

*1) Cost "neutral" in nature*

Because of budget constraints, agency moves to pay plan 20 were characterized as cost "neutral", being similar to the method used by FWP to move to an alternative pay plan in which appropriation authority was shifted from operations to personal services. Reducing personal services authority to fund pay plan 20 costs without reducing FTE is short term in nature. This method burdens future legislatures with finding resources to pay for these additional personal service costs when they become fully funded in the 2007 biennium.

*2) The department is requesting present law and new proposal adjustments similar to proposed reductions*

Funding of this pay plan is only cost "neutral" if expenditures are permanently reduced from the base and if they are not replaced. As the legislature examines each of the decision packages, they should keep in mind that in many cases the agency is requesting authority for proposals that are very similar to the proposed reductions. Therefore, if the reductions proposed are truly not necessary, and if the pay plan is to be neutral, the expenses should not be replaced in the department's budget. In this way, the pay plan would be permanently funded via base reductions. If the agency contends it must perform the functions it proposes to cut to fund the pay plan, the pay proposal is not neutral.

*3) DEQ has already starting paying employees based upon the alternative pay plan*

The increase in pay was captured in the personal services "snapshot" taken before the 2005 biennium used to calculate personal services. Consequently, even without additional increases, over \$2.5 million will be included in the department's base over the biennium unless the base is permanently reduced and funding is not replaced. The legislature should examine the extent to which services would be reduced in future fiscal years to fund continued levels of increased pay.

*4) DEQ is requesting services as if all positions will be filled throughout the biennium.*

As stated, one of the reasons DEQ went to the broadband plan was due to high vacancies and turnover in key positions. As discussed in the programs that follow, the department is requesting decision packages that fully fund operations associated with the positions on the assumption they will be filled. Further, DEQ anticipates the additional pay will significantly impact vacancy rates.

Options

- Accept the executive proposal and approve all negative decision packages as proposed
- Approve all negative decision packages and reduce FTE by the number necessary to fund the pay plan on an on-going basis
- Approve negative decision packages and reduce FTE by the number necessary to make personal services portions of the decision packages permanent in nature
- Examine each base reduction and decision package independently to determine worth and approve only selected negative decision packages
- Direct the department to document the impact of pay plan 20 on recruitment and retention efforts. With a full biennium under pay plan 20, the legislature would be in a better position to select vacant positions and associated operations costs for elimination. An update could be given to the 2005 legislature
- Do not approve negative decision packages

**Base Adjustments**

The executive proposes "base adjustments" that group a number of, at times disparate, present law adjustment requests in nearly every division. Although not an exclusive reason for the requests, many of the adjustments are being requested because divisions had vacant positions. For the department, the vacant positions mean a reduced level of spending and a smaller base. However, as was discussed above, the department moved to pay plan 20. The department is very optimistic that increased pay under pay plan 20 will improve the department's recruitment and retention efforts. Thus, many of the vacant positions throughout the department would become filled. If that materializes as the department anticipates, there would be funding for the FTE, but a lack of funding for associated operations costs.

For brevity, detailed descriptions of the requested adjustments are not made in the analysis. However, this information will be available for legislative decision-making. More detailed information regarding justification for base expenditure adjustments is also available upon request. Figure 2 summarizes the decision packages that are characterized as "base" adjustments:

Figure 2

Department of Environmental Quality Summary of "Base Adjustment" Decision Packages											
		Fiscal 2004					FY2005				
		General Fund	State Special	Federal	Proprietary	Total	General Fund	State Special	Federal	Proprietary	Total
Central Management Program -- 10											
Board of Environmental Review	PL 1	\$ 2,870				\$ 2,870	\$ 2,870				\$ 2,870
Central Management Program	PL 2				243,441	243,441				243,441	243,441
Attorney Pool - Base Adjustments	PL 3	<u>10,892</u>	<u>18,776</u>	<u>17,039</u>		<u>46,707</u>					-
Total Program 10		\$ 13,762	\$ 18,776	\$ 17,039	\$ 243,441	\$ 293,018	\$ 2,870	\$ -	\$ -	\$ 243,441	\$ 246,311
Planning Prevention and Assistance Bureau -- 20											
Resource Protection and Planning Bureau (RPPB)	PL 4	40,634	101,705	624,539		766,878	(24,077)	98,934	685,455		760,312
Monitoring and Data Management Bureau (MDMB)	PL 6	130,430	18,445	519,739		668,614	126,653	18,182	479,736		624,571
Technical and Financial Assistance Bureau (TFAB)	PL 8	(47,701)	70,895	365,394		388,588	(47,764)	71,785	362,986		387,007
Pollution Prevention Bureau (PPB)	PL 9	7,415	27,094	(45,292)		(10,783)	7,415	26,850	(42,114)		(7,849)
Administration	PL 11	<u>(25,357)</u>	<u>21,918</u>	<u>11,619</u>		<u>8,180</u>	<u>(30,745)</u>	<u>21,896</u>	<u>11,498</u>		<u>2,649</u>
Total Program 20		\$ 105,421	\$ 240,057	#####	\$ -	\$ 1,821,477	\$ 31,482	\$ 237,647	#####	\$ -	\$ 1,766,690
Enforcement Division -- 30											
Enforcement	PL 13	35,812	11,435	23,873		71,120	38,776	12,381	25,848		77,005
Enforcement Leased Vehicles	PL 73	-	8,444			8,444		6,318			6,318
Total Program 30		\$ 35,812	\$ 19,879	\$ 23,873	\$ -	\$ 79,564	\$ 38,776	\$ 18,699	\$ 25,848	\$ -	\$ 83,323
Remediation Division -- 40											
Hazardous Waste Site Cleanup Bureau	PL 15		(147,322)	159,520		12,198		(147,324)	174,257		26,933
Mine Waste Cleanup Bureau (MWCB)	PL 16		30,000	40,041		70,041		31,632	46,439		78,071
Technical Services Bureau (TSB)	PL 17		62,652	(16,793)		45,859		69,343	(16,793)		52,550
Mine Waste Cleanup (MWCB) Asbestos Removal	PL 54			145,000		145,000			145,000		145,000
Petro Board	PL 66		65,000			65,000		65,000			65,000
Fiscal and Admin. Services (FAS)	PL 86		<u>7,149</u>	<u>5,127</u>		<u>12,276</u>		<u>10,122</u>	<u>7,259</u>		<u>17,381</u>
Total Program 40		\$ -	\$ 17,479	\$ 332,895	\$ -	\$ 350,374	\$ -	\$ 28,773	\$ 356,162	\$ -	\$ 384,935
Permitting Compliance Division -- 50											
Permitting Compliance Division	PL 19		9,926			9,926		9,926			9,926
MT Environmental Protection Act (MEPA) Admin.	PL 22	20,308				20,308	20,308				20,308
MEPA Projects	PL 23		548,421			548,421		(451,579)			(451,579)
Air Base Adjustments	PL 24		86,688			86,688		86,553			86,553
Hazardous Waste	PL 25		47,691	(24,097)		23,594		47,961	(23,984)		23,977
Asbestos	PL 26		7,867	(6,052)		1,815		8,550	(6,077)		2,473
Junk Vehicle	PL 27		40,998			40,998		41,188			41,188
Public Water Supply	PL 28		32	53,787		53,819		109	54,528		54,637
Solid Waste	PL 29	6,986	54,587			61,573	6,986	58,579			65,565
Waste Water Operator	PL 30		39,572	29,876		69,448		39,619	29,980		69,599
Hard Rock	PL 31	3,207	92,057			95,264		84,536			84,536
Major Facilities Siting Act (MFSA) Administration	PL 32	(37,888)				(37,888)	(37,885)				(37,885)
Major Facilities Siting Act (MFSA) Projects	PL 33		300,000			300,000					-
Coal Program	PL 36		12,843	147,371		160,214		13,474	149,896		163,370
Opencut Program	PL 37	(18,012)	48,061			30,049	(17,410)	50,471			33,061
Subdivisions	PL 38		261,264			261,264		266,295			266,295

**LFD  
ISSUE**

It appears that many of the base adjustments are requested because of vacant positions, numerous small equipment requests, and hiring interns. In addition, the department states, in most cases, full levels of staffing are anticipated. Although it is the position of the department that the move to pay plan 20 will significantly reduce the number of vacant positions, it does not articulate why the positions have been vacant or when they will be filled.

As discussed in the pay plan 20 issue, the legislature may wish to direct the department to document the impact of pay plan 20 on recruitment and retention efforts. With a full biennium under pay plan 20, the legislature would be in a better position to select vacant positions and associated operations costs for elimination. An update could be given to the 2005 legislature.

**Resource Indemnity Trust**

The department administers two accounts that receive a portion of resource indemnity trust (RIT) interest: 1) hazardous waste/CERCLA (22 percent of the interest remaining after distribution); and 2) environmental quality protection (EQPF) (7.5 percent after distribution). The executive is proposing to use \$1,837,594 from hazardous waste/CERCLA and \$1,904,900 from EQPF for projects over the biennium. Figure 3 details the uses of this funding.

Figure 3  
Environmental Quality  
Executive Request --RIT Accounts

	FY 2004	FY 2005	Biennium
<u><b>Hazardous Waste/CERCLA</b></u>			
Central Management	\$ 18,514	\$ 18,658	\$ 37,172
Planning, Prevention, & Assistance	161,122	160,891	322,013
Enforcement			0
Remediation	236,470	187,562	424,032
Permitting and Compliance	526,971	527,406	1,054,377
Total Hazardous Waste/CERCLA	\$ 943,077	\$ 894,517	\$ 1,837,594
<u><b>Environmental Quality Protection Fund (EQPF)</b></u>			
Central Management	\$ 849	\$ 856	\$ 1,705
Planning, Prevention, & Assistance			-
Enforcement			-
Remediation	1,099,998	803,197	1,903,195
Permitting and Compliance	-	-	-
Total EQPF	\$ 1,100,847	\$ 804,053	\$ 1,904,900

**LFD  
ISSUE**

For a complete discussion of the RIT funds, see the Agency Overview section for the Department of Natural Resources and Conservation.

**Database Conversions**

The executive is requesting \$1.2 million over the 2005 to continue with a database conversion project that would upgrade current systems to more modern and compatible database standards. Of this total, \$185,000 would be funded through the department proprietary fund if the proposed rate is approved and \$1.0 million would be funded in HB 2. These increases are shown in Figure 4.



Figure 4 Department of Environmental Quality Database Development/Maintenance 2005 Biennium										
Fiscal 2004						Fiscal 2005				
	DP#	Maint/ Develop	State Special	Federal	Proprietary	Total	State Special	Federal	Proprietary	Total
<b>Program 10</b>										
Central Management Program										
CMP Data Migration	67	Maint.			\$ 60,000	\$ 60,000			\$ 25,000	\$ 25,000
		Develop			40,000	40,000				-
One Stop Grant	88	Develop		500,000		500,000				
Database Development	72	Develop			50,000	50,000			10,000	10,000
<b>Program 40</b>										
Technical Services Bureau	71	Develop	23,500	36,500		60,000	23,500	36,500		60,000
<b>Program 50</b>										
Waste Management	69	Develop	50,000			50,000	50,000			50,000
PCD Database Maintenance	70	Maint.	121,862	27,000		148,862	121,861	27,000		148,861
Totals			\$ 195,362	\$563,500	\$ 150,000	\$908,862	\$195,361	\$63,500	\$ 35,000	\$293,861
<b>Summary:</b>										
Maintenance			\$ 121,862	\$ 27,000	\$ 60,000	\$208,862	\$121,861	\$27,000	\$ 25,000	\$173,861
Development			\$ 73,500	\$536,500	\$ 90,000	\$700,000	\$ 73,500	\$36,500	\$ 10,000	\$120,000

According to the department, development of this system will reduce the redundancy associated with maintaining several project-level databases and increase overall efficiency by centralizing many database maintenance tasks. Part of the vision of the completed system would include data exchanges with the EPA and other states. In addition, workers in any given part of the department would be able to access one database and receive the "total environmental picture" of an entity. For example, if an entity was seeking an air quality permit, the worker could pull up information on all of the entity's interactions with the department. Thus, the worker would look at one database to see if the entity has other permits, environmental violations, or on-going litigation.

In order to comply with Information Technology Act of 2001, the Montana Department of Environmental Quality has submitted its draft plan for information technology (IT) to the Information Technology Services Division of the Department of Administration for review.

#### LFD ISSUE

In addition to development costs, there will be on-going maintenance costs for upgrading, data conversion, and troubleshooting. Maintenance costs of \$382,723 are being requested in the 2005 biennium. These costs are on-going in nature and would have to be funded for the life of the database.

#### LFD COMMENT

The department has secured another "one-stop" grant for \$500,000 that it will use for database development. Some of the development is critical for communication with the EPA, while other portions should enhance functionality. Two key points that the legislature should know are: 1) there are always going to be "maintenance" costs; and 2) while federal funding sources like the "one-stop" grant are available in lieu of general fund, these can be short-term in nature.

**Additional Programs for General Fund Reduction Consideration**

As part of the ongoing effort to address the current budget shortfall in the general fund, the agency was asked to evaluate programs for inclusion on a three-part list of "core agency" programs, "important" programs, and "beneficial" programs. The following are beneficial programs that utilize general fund for a portion of program funding. According to the executive, these activities do not have the same public health and environmental protection implications for all citizens of the state and provide information, services, and projects to various groups of individuals. Behind each program is the department's priority rank out of twelve programs identified as beneficial.

*Pollution Prevention Bureau, Business and Community Assistance (3)*

The Bureau and Community Assistance program helps reduce the volume and toxicity of wastes disposed of in Montana, to find new markets and uses for materials that would otherwise be considered wastes, and to prevent pollution of air, land and water resources. In addition, assistance is provided to businesses on alternative processes and less toxic materials, and in developing new markets for recycling materials or goods manufactured with alternative materials. An example of a project the bureau has helped to develop is the Pay-As-You-Throw (PAYT) Program. This program is a fee-for-service program that allows residential and commercial customers to pay for the amount of waste they produce instead of paying a fixed fee or tax for solid waste services. PAYT creates a direct, economic incentive for citizens and businesses to reduce the amount of waste generated, and to increase recycling and composting activities.

The legislature may wish to consider the following:

- This program is not federally mandated.
- According to 75-10-803, MCA, the state has a goal to reduce the volume of solid waste generated by 25 percent by January 1, 1996. Although the state is about half way to this goal, it is clearly not in compliance with statutory goals.
- Program reductions could be sustained on a long-term basis through mitigation efforts such as prioritization of client services and training reductions.

Options (may require statutory changes):

- Eliminate the general fund support for this program for a reduction of \$176,700 over the biennium
- Eliminate the general fund support and direct the department to stop those program activities that were funded with general fund until another funding source is obtained
- Require entities seeking services to pay fees commensurate with actual program costs
- Do not eliminate general fund support for this program.

*Major Facility Siting Act (MFSA) (4)*

Under MFSA, the executive provides oversight of large fuel pipelines, large electrical transmission lines, and operation of major energy-related facilities. Services performed include inspections, calculations on reclamation bonds, and existing MFSA project oversight with 1.50 FTE providing pre-application consultation with potential applicants. If the consultation results in an application being filed, the department can recover costs. Applicants served include PP&L Montana (Colstrip 3 & 4, hydroelectric facilities), NorthWestern Energy (transmission lines), Bonneville Power Administration (transmission lines), Western Area Power Administration (transmission lines), Avista Corporation. (transmission and generation facilities), and Express Pipeline (oil).

The legislature may wish to consider the following:

- The MFSA is not a federally mandated program
- MFSA applications are received at irregular intervals
- According to the executive, the program receives general fund support to maintain a knowledgeable staff to respond in a timely manner when applications are filed, despite the irregularity
- No federal funding would be lost if the general fund is eliminated

Options (may require statutory changes):

- Eliminate the general fund support and eliminate the program for a reduction of \$310,857 over the biennium
- Eliminate the general fund support and raise fees to cover the all program costs
- Eliminate the general fund support and direct the department to stop program activities until another funding source is obtained
- Do not eliminate the general fund support and retain program activities

*Federal Biomass Energy Program (9)*

The Biomass Energy program is to encourage the use of biomass for alternative transportation fuels including ethanol and bio-diesel fuels and energy generation. This program assists in the commercial development of biomass (fast growing wood and other agriculture products that can be used to generate energy) as an energy resource option and includes applied research, development, and education. An example of a project includes the use of biodiesel, ten percent ethanol blend (E-10), and other renewable transportation fuels to increase transportation efficiency and reduce vehicle pollution in Montana, with special emphasis in Montana's Yellowstone National Park region.

The legislature may wish to consider the following:

- This is not a mandated service. DEQ is providing this service at the request of the federal government
- The federal government contributes to the cost of the program. If state accepts the federal dollars, the state must put up one-third of the funding as a match. Montana contributes \$25,000 general fund and matches \$50,000 of federal funds
- If the general fund match were to be eliminated, the result would be a loss or slowdown of services. If cash is not available, the department can meet matching requirements by providing in-kind services. For example, in-kind services might involve having a third-party complete a biomass project. The value of the project would then be applied to the state's one-third match and the federal authority would be retained
- Because in-kind services are more difficult to obtain than cash, services would be provided at a reduced level. This, in turn, would reduce the amount of the federal grant awarded to Montana and program activity would continue at a reduced level

Options

- Eliminate the general fund match of \$25,000 over the biennium, along with the entire program. The department would no longer receive authority for biomass projects
- Retain the program, eliminate the general fund match, and require the department to provide the funding match with in-kind services
- Do not eliminate the general fund match for the biomass program

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	8.00	0.00	3.00	11.00	0.00	3.00	11.00	11.00
Personal Services	340,851	76,286	146,801	563,938	75,720	146,421	562,992	1,126,930
Operating Expenses	132,484	663,262	1,126,324	1,922,070	43,223	(23,369)	152,338	2,074,408
Equipment	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$473,335</b>	<b>\$739,548</b>	<b>\$1,273,125</b>	<b>\$2,486,008</b>	<b>\$118,943</b>	<b>\$123,052</b>	<b>\$715,330</b>	<b>\$3,201,338</b>
General Fund	124,938	28,781	123,125	276,844	29,806	123,052	277,796	554,640
State/Other Special	182,767	169,844	1,150,000	1,502,611	46,609	0	229,376	1,731,987
Federal Special	165,630	540,923	0	706,553	42,528	0	208,158	914,711
Proprietary	0	0	0	0	0	0	0	0
<b>Total Funds</b>	<b>\$473,335</b>	<b>\$739,548</b>	<b>\$1,273,125</b>	<b>\$2,486,008</b>	<b>\$118,943</b>	<b>\$123,052</b>	<b>\$715,330</b>	<b>\$3,201,338</b>

### Program Description

The Central Management Division consists of the Director's Office, a Financial Services Office, and an Information Technology Office. It is the organizational component of the agency that is responsible and accountable for the administration, management, planning, and evaluation of agency performance in carrying out department mission and statutory responsibilities. The Director's Office includes the director's staff, the deputy director, an administrative officer, public information officer, a centralized Legal Services Unit, and a centralized Personnel Office. The Financial Services Office provides budgeting, accounting, payroll, procurement, and contract management support to other divisions. The Information Technology Office provides information technology services support to other divisions.

### Program Narrative

Central Management Division Major Program Highlights	
<ul style="list-style-type: none"> <li>○ The executive secured federal funding for database development</li> <li>○ The executive is requesting a 23 percent overhead rate</li> </ul>	
Major LFD Issues	
<ul style="list-style-type: none"> <li>○ Federal funding for database development is one-time in nature</li> <li>○ Re-earmarking of fine, fee, and penalty revenue does not have a general fund savings</li> <li>○ Statute would have to be changed to accommodate re-earmarking</li> </ul>	

**Funding**

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

<b>Program Funding Table Central Management Program</b>						
<b>Program Funding</b>	<b>Base Fiscal 2002</b>	<b>% of Base Fiscal 2002</b>	<b>Budget Fiscal 2004</b>	<b>% of Budget Fiscal 2004</b>	<b>Budget Fiscal 2005</b>	<b>% of Budget Fiscal 2005</b>
01100 General Fund	\$ 124,938	26.4%	\$ 276,844	11.1%	\$ 277,796	38.8%
02070 Hazardous Waste-Cercla	14,883	3.1%	18,514	0.7%	18,658	2.6%
02075 Ust Leak Prevention Program	7,897	1.7%	9,852	0.4%	9,928	1.4%
02097 Environmental Rehab & Response	-	-	125,000	5.0%	-	-
02157 Solid Waste Management Fee	8,893	1.9%	11,097	0.4%	11,183	1.6%
02162 Environmental Quality Protecti	669	0.1%	849	0.0%	856	0.1%
02201 Air Quality-Operating Fees	47,560	10.0%	59,168	2.4%	59,627	8.3%
02204 Public Drinking Water	4,303	0.9%	5,379	0.2%	5,420	0.8%
02206 Agriculture Monitoring	344	0.1%	452	0.0%	457	0.1%
02278 Npdes Permit Program	42,512	9.0%	52,940	2.1%	53,351	7.5%
02291 Operator Training Acct/Penalti	-	-	150,000	6.0%	-	-
02418 Subdivision Plat Review	23,725	5.0%	29,556	1.2%	29,785	4.2%
02428 Major Facility Siting	-	-	1,000,000	40.2%	-	-
02458 Reclamation & Development	29,042	6.1%	36,124	1.5%	36,403	5.1%
02845 Junk Vehicle Disposal	2,939	0.6%	3,680	0.1%	3,708	0.5%
03033 Energy/Fsd	6,079	1.3%	7,587	0.3%	7,646	1.1%
03067 Dsl Federsl Reclamation Grant	12,721	2.7%	15,853	0.6%	15,976	2.2%
03100 Epa / Drinking Water Srf	3,030	0.6%	3,794	0.2%	3,824	0.5%
03228 L.U.S.T./Trust	5,074	1.1%	6,341	0.3%	6,391	0.9%
03249 Nps Implementation Grant	24,662	5.2%	30,690	1.2%	30,930	4.3%
03262 Epa Ppg	111,782	23.6%	139,455	5.6%	140,537	19.6%
03302 Wetlands Grant	2,282	0.5%	2,833	0.1%	2,854	0.4%
03385 Epa/One Stop Program	-	-	500,000	20.1%	-	-
Grand Total	\$ 473,335	100.0%	\$ 2,486,008	100.0%	\$ 715,330	100.0%

The primary functions of this division are funded with proprietary funds (non-budgeted) and are not appropriated in HB 2. As shown in the following figure, the largest funding source in this division is derived from the major facility sitting and is a result of a program reorganization (see discussion in Agency Overview). Other major funding in HB 2 consists of general fund, various operating and permitting fees, and federal EPA grants. A discussion of the proposed proprietary rates to support the function follows.

Present Law Adjustments									
-----Fiscal 2004-----					-----Fiscal 2005-----				
FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services				93,179					92,588
Vacancy Savings				(17,363)					(17,338)
Inflation/Deflation				573					573
Fixed Costs				7,136					8,124
Total Statewide Present Law Adjustments				\$83,525					\$83,947
DP 1 - Board of Environmental Review Adjustments									
0.00	2,870	0	0	2,870	0.00	2,870	0	0	2,870
DP 3 - Attorney Pool Base Adjustments									
0.00	10,892	18,776	17,039	46,707	0.00	11,819	20,372	18,489	50,680
DP 75 - Attorney Pool Alternative Payplan Adjustment									
0.00	(4,327)	(7,460)	(6,767)	(18,554)	0.00	(4,327)	(7,460)	(6,767)	(18,554)
DP 79 - Environmental Rehabilitation & Response Account									
0.00	0	125,000	0	125,000	0.00	0	0	0	0
DP 88 - Restore OTO - Federal One Stop Grant									
0.00	0	0	500,000	500,000	0.00	0	0	0	0
Total Other Present Law Adjustments									
0.00	\$9,435	\$136,316	\$510,272	\$656,023	0.00	\$10,362	\$12,912	\$11,722	\$34,996
Grand Total All Present Law Adjustments				\$739,548					\$118,943

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

DP 1 - Board of Environmental Review Adjustments - The Executive Budget includes a request for a base adjustment to the Board of Environmental Review (BER). The executive anticipates the BER hearings officer will have an increased workload in the upcoming biennium. The increased costs are not program specific and would be charged to the BER portion of the budget. The executive also anticipates increased travel costs due to the location of some of the board members. The increase to personal services is for increased board per diem. No FTE are associated with these costs.

#### LFD ISSUE

For further discussion, please see agency-wide issue regarding base adjustments.

DP 3 - Attorney Pool Base Adjustments - The Executive Budget includes a request for funding to provide centralized management of legal services. In fiscal 2002, the executive moved 8.00 FTE attorney positions and related operations funding from Programs 20, 30, and 50 to Program 10 creating an attorney pool within the Legal Services unit of the Director's Office. This reorganization assisted the attorney supervisor in managing and monitoring the attorney pool budget and expenditures. Due to staff vacancies, base adjustments are being requested for expenditure categories not fully spent. These categories include other legal, temporary services, printing and photocopying, books and reference materials, postage, phones, education and training, dues and subscriptions, and indirect costs.

#### LFD ISSUE

For further discussion, please see agency-wide issue regarding base adjustments.

DP 75 - Attorney Pool Alternative Payplan Adjustment - The Executive Budget includes a request for the alternative pay plan (pay plan 20) adjustments for the attorney pool. This is a reduction to operating costs to cover the increased personal

services costs due to the move to pay plan 20.

**LFD  
ISSUE**

See department wide issue on costs associated with the move to pay plan 20

**DP 79 - Environmental Rehabilitation & Response Account** - The Executive Budget includes a request for a biennial base adjustment to the environmental rehabilitation and response account (ERRA) established in SB 449 of the 2001 legislative session. Upon appropriation, money in the new account is available to DEQ for reclamation of mined lands, remediation of sites containing hazardous wastes or substances, and for response to imminent threats of substantial harm to public health, safety, or the environment when funding is not available from the Environmental Contingency Account.

**DP 88 - Restore OTO - Federal One Stop Grant** - The Executive Budget includes a request to restore a one time only biennial appropriation of \$500,000 federal grant funds. This grant is furnished to states that have demonstrated an initiative and the capability to further the goals of the Environmental Protection Agency (EPA) for information technology. The goals of the one-stop program are to consolidate data, catalogue regulated entities, and provide for data sharing with other government agencies and the public. This grant would provide the executive with additional resources to enhance on-going data conversions of air, water, and waste databases into a department enterprise database. This is a one-time-only grant from EPA.

**LFD  
COMMENT**

Due to the one-time nature of this grant, the legislature may wish to designate any appropriation as one-time-only in nature.

New Proposals										
Program	Fiscal 2004					Fiscal 2005				
	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
DP 200 - 10 MEPA Reorg from Prg 50										
10	3.00	123,125	1,000,000	0	1,123,125	3.00	123,052	0	0	123,052
DP 8013 - Legal Contingency & Database Development										
10	0.00	0	150,000	0	150,000	0.00	0	0	0	0
Total	3.00	\$123,125	\$1,150,000	\$0	\$1,273,125	3.00	\$123,052	\$0	\$0	\$123,052

**New Proposals**

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

**DP 200 - 10 MEPA Reorg from Prg 50** - The Executive Budget includes a request for an agency reorganization that would move the Montana Environmental Protection Act (MEPA) program to the Central Management Division. If approved, the move would consist of 3.00 FTE and associated operating costs.

**DP 8013 - Legal Contingency & Database Development** - The Executive Budget includes a request for a funding switch from general fund to state special revenue. In addition, the executive is proposing a statutory change to allow penalty revenue from numerous environmental laws administered by the department to be deposited into a state special revenue account (02291) to fund legal contingencies and database development. As proposed, the funding would be used primarily to pay legal fees in the event the department was ordered to pay another party's legal fees in the event the department lost a legal action and for legal actions to defend the department. Secondary in nature, the department would use the funding to enhance database development within the department. Currently, state statutes require that administrative and civil penalties be deposited into the general fund.

The decision package is contingent upon passage of legislation and would, in part, amend the following statutes:

- Asbestos Control Act [MCA 75-2-514, 75-2-515]
- Hazardous Waste Management Act [MCA 75-10-417, 75-10-418, 75-10-424]
- Motor Vehicle Recycling and Disposal Act [MCA 75-10-542]
- Public Water Supply Law [MCA 75-6-114, 75-6-109]
- Strip and Underground Mine Reclamation Act [MCA 82-4-241]
- Underground Storage Tank Act [MCA 75-10-525, 75-11-516]
- Sanitations in Subdivisions Act [MCA 76-4-109]
- Water Quality Act [MCA 75-5-634]

### LFD ISSUE

As proposed, this request would utilize revenue sources derived from fines, fees, and penalties that are de-earmarked to the general fund. When a funding source derives income from fines, fees, or penalties, the legislature routinely reviews these funds to determine if they are candidates for de-earmarking under 17-1-505, MCA. Historically, this has been done to avoid directly funding enforcement activities with fines. When these funding sources are de-earmarked, the department has the opportunity to seek a general fund appropriation for these purposes.

If the legislature chooses to approve this appropriation, it should be aware that no general fund would be saved. Although a general fund appropriation would not be sought, a similar amount of general fund would be diverted into the state special revenue fund for the same purpose. Thus, even though the funding appears to come from state special revenue, the revenues to the general fund are reduced.

In the case of legal contingencies, these diversions would be the only funding source. Thus, the funding level could be capped and spending could be restricted for that purpose. Adding database development as an alternate use complicates the primary use of the fund. Database development is funded from a variety of funding sources throughout the department, including general fund. Allowing the department to spend a portion of this money on database development amounts to an expansion of that project. Since the proposed funding source ultimately comes from general fund, any expenditure for the purpose of database development would be, in effect, spending from the general fund.

The legislature may wish to:

#### Options

- Restrict spending to legal contingencies and cap the level of funding to ensure legal contingencies are met with any excess diverted back to the general fund
- Allow spending on database development but restrict spending to a percentage of the fund revenue or a fixed dollar amount
- Do not approve the decision package

## Proprietary Rates

### Program Description

The Central Management Program consists of the Director's Office, a Financial Services Office, and an Information Technology Office. It is the organizational component of the agency that is responsible and accountable for the administration, management, planning, and evaluation of agency performance in carrying out department mission and statutory responsibilities. The Director's Office includes the director's staff, the deputy director, an administrative officer, public information officer, a centralized legal services unit, and a centralized personnel office. The Financial Services Office provides budgeting, accounting, payroll, procurement and contract management support to other divisions. The Information Technology Office provides information technology services support to other divisions.

The centralized Legal Services Unit has 3.00 FTE that are funded by the internal service fund, two attorneys and one paralegal. This staff provides the administration, management, and planning for the legal services unit, and specific duties for department programs, including legislation, rule making, enforcement actions, and contract review. The remainder of this unit is funded by direct charges to the programs and projects requiring the legal work.

Customers are all divisions and employees of the Department of Environmental Quality. Use of these services is



mandated by agency policies and procedures. There are no alternative sources for the Central Management Program as a whole. The department contracts for legal services whenever it is cost effective to do so; to obtain specific expertise for a case; or when legal jurisdiction of the case requires an attorney licensed in that state. In addition, the department contracts for information technology database development and for hosting of the department's enterprise database.

### **Revenues and Expenses**

The department has one proprietary fund, which is an internal service fund used to account for the department's indirect cost activity. The department anticipates negotiating an indirect cost rate with the U.S. Environmental Protection Agency (EPA) of approximately 23 percent in fiscal years 2004 and 2005. Revenues generated by the current indirect cost rate fund 50.50 FTE.

Central Management Program provides the services presented in the program description. The cost of providing support services is directly related to the number of staff served. The department annually negotiates an indirect rate with EPA based on that computation. Adjustments for over-recovery and under-recovery in the previous year are made to the calculations each year. EPA and DEQ agree to the services that are included in the indirect calculation. Funding is collected from all non-proprietary sources expended within the department. Fiscal 2002 collections were: \$462,818 in general fund, \$1,396,273 in state special revenue, and \$1,255,469 in federal revenue.

### **Expense Description**

The major cost drivers within this program are personal services and fixed costs. Fixed costs, especially tort liability coverage, continue to be a significant cost increase to the proprietary fund. The cost of providing support services is directly related to the number of staff served. Therefore, future expenses are determined by projecting increases or decreases in program staff. Non-typical and one-time expenses are backed out of the cost of providing services before calculating the indirect rate. Salaries are constant throughout the fiscal year, except during fiscal year end, executive budget preparation, and legislative session. The indirect rate proposed to the legislature would fund 51.50 FTE.

#### *Working Capital*

The fund normally carries a 60-day working capital to meet its immediate cash needs for covering payroll and various operating costs.

#### *Fund Equity*

Due to timing factors, the fund balance does not always equal zero.

### **Rate Explanation**

The department negotiates an annual indirect cost rate with EPA. The approved rate is a fixed rate. This rate is applied against personal services, temporary services and work-study contracts charged within each division of the department, other than the Central Management Program.

The executive is requesting a decrease in the indirect cost rate from 24 percent approved in the last legislative session to 23 percent. The rate negotiated with EPA requires a carry-forward amount be built into the rate. This carry-forward amount represents the amount the department either under-recovered or over-recovered in a given year. This computation compares what was initially negotiated versus what actually occurred. The difference is then carried forward into the following year's rate.

The indirect cost rate is determined based on guidelines prescribed by the federal government. In addition, the department complies with 17-3-111, MCA, which requires agencies to negotiate a rate that would recover indirect costs to the fullest extent possible. In order to comply with this law, the department has requested a rate that may vary slightly from the rate the department actually negotiates with EPA. The rate approved by the legislature is considered a cap; and therefore, the department cannot negotiate for a rate higher than what has been approved by the legislature. However, the rate negotiated with EPA may be slightly lower.

## Report on Internal Service and Enterprise Funds, 2005 Biennium

Fund	Fund Name	Agency #	Agency Name	Program Name
06509	DEQ Indirect Cost Pool	53010	Dept. of Environmental Quality	Management

	actual FY00	actual FY01	actual FY02	budgeted FY03	budgeted FY04	budgeted FY05
<b>Operating Revenues:</b>						
Fee revenue						
Revenue from State Services (520501)	-	-	-	2,116,764	1,878,717	1,993,619
Net Fee Revenue	1,542,997	1,435,570	1,913,545	2,116,764	1,878,717	1,993,619
Investment Earnings	-	-	-	-	-	-
Securities Lending Income	-	-	-	-	-	-
Premiums	-	-	-	-	-	-
Other Operating Revenues	8,502	5,419	433	-	-	-
Total Operating Revenues	1,551,499	1,440,989	1,913,978	2,116,764	1,878,717	1,993,619
Intrafund Revenue	-	-	-	-	-	-
Net Operating Revenues	1,551,499	1,440,989	1,913,978	2,116,764	1,878,717	1,993,619
<b>Operating Expenses:</b>						
Personal Services	1,679,310	1,777,179	2,053,835	2,310,494	2,477,750	2,476,126
Other Operating Expenses	748,094	694,398	943,264	1,078,396	1,593,107	1,420,900
Miscellaneous, operating	39,698	43,606	44,171	0	0	0
Miscellaneous, other	-	-	-	-	-	-
Total Operating Expenses	2,467,102	2,515,183	3,041,270	3,388,890	4,070,857	3,897,026
Intrafund Expense	-	-	-	-	-	-
Net Operating Expenses	2,467,102	2,515,183	3,041,270	3,388,890	4,070,857	3,897,026
Operating Income (Loss)	(915,603)	(1,074,194)	(1,127,292)	(1,272,126)	(2,192,140)	(1,903,407)
<b>Nonoperating Revenues (Expenses):</b>						
Gain (Loss) Sale of Fixed Assets	-	(17,388)	-	-	-	-
Federal Indirect Cost Recoveries	1,079,577	1,042,820	1,291,779	1,532,155	2,243,476	2,187,275
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	1,079,577	1,025,432	1,291,779	1,532,155	2,243,476	2,187,275
Income (Loss) Before Operating Transfers	163,974	(48,762)	164,487	260,029	51,336	283,868
Contributed Capital	270,708	270,708	-	-	-	-
Operating Transfers In (Note 13)	-	-	-	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-	-	-
Retained Earnings/Fund Balances - July 1 - As Restated	15,918	180,488	402,434	566,921	826,950	878,286
Net Income (Loss)	434,682	221,946	164,487	260,029	51,336	283,868
Retained Earnings/Fund Balances - June 30	450,600	402,434	566,921	826,950	878,286	1,162,154
60 days of expenses (Total Operating Expenses divided by 6)	411,184	419,197	506,878	564,815	678,476	649,504

## Fee/Rate Information for Legislative Action:

Requested Rates for Internal Service Funds	20.70%	20.30%	22.15%	21.91%	23.00%	23.00%
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Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	96.58	1.00	1.00	98.58	1.00	1.00	98.58	98.58
Personal Services	3,543,033	1,011,279	49,074	4,603,386	1,005,268	48,927	4,597,228	9,200,614
Operating Expenses	6,062,375	2,116,364	21,446	8,200,185	2,075,064	21,412	8,158,851	16,359,036
Equipment	49,573	34,713	0	84,286	34,713	0	84,286	168,572
Transfers	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$9,654,981</b>	<b>\$3,162,356</b>	<b>\$70,520</b>	<b>\$12,887,857</b>	<b>\$3,115,045</b>	<b>\$70,339</b>	<b>\$12,840,365</b>	<b>\$25,728,222</b>
General Fund	1,802,567	76,411	0	1,878,978	59,124	0	1,861,691	3,740,669
State/Other Special	830,747	462,089	0	1,292,836	466,549	0	1,297,296	2,590,132
Federal Special	7,021,667	2,623,856	70,520	9,716,043	2,589,372	70,339	9,681,378	19,397,421
<b>Total Funds</b>	<b>\$9,654,981</b>	<b>\$3,162,356</b>	<b>\$70,520</b>	<b>\$12,887,857</b>	<b>\$3,115,045</b>	<b>\$70,339</b>	<b>\$12,840,365</b>	<b>\$25,728,222</b>

### Program Description

The division: 1) finances construction and improvement of community drinking water and wastewater systems, and provides engineering review and technical assistance to community water infrastructure planners and officials; 2) provides assistance to small businesses in their efforts to comply with environmental regulations; 3) monitors air and water quality conditions and trends, assesses sources and severity of potential pollution problems, and aids industry efforts to achieve cost effective compliance; 4) assists local community efforts in planning for energy, watershed, airshed, and solid and hazardous waste management; 5) helps develop water total maximum daily loads; 6) coordinates department positions on environmental legislation, proposes rules and policy, and develops environmental protection criteria; 7) provides economic modeling and analysis to assess the cost effectiveness of various environmental programs; 8) finances energy retrofits of public buildings; and 9) provides technical assistance, education and outreach to builders, homeowners, and others on energy efficiency and renewable energy, indoor air quality and radon. The division consists of four bureaus: Monitoring and Data Management, Pollution Prevention, Resource Protection Planning, and Technical and Financial Assistance.

### Program Narrative

Planning Prevention and Assistance Division	
Major Program Highlights	
○	Requesting decreases to fund pay raises given as part of the move to pay plan 20
○	Requesting base adjustments, many of which are due to vacant positions
Major LFD Issues	
○	Some pay plan 20 adjustments would be short-term in nature
○	Number of base adjustments should decrease if pay increases associated with the move to pay plan 20 improve recruitment and retention efforts

### Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

<b>Program Funding Table</b> <b>Plan.Prevent. &amp; Assist.Div.</b>						
Program Funding	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005
01100 General Fund	\$ 1,802,567	18.7%	\$ 1,878,978	14.6%	\$ 1,861,691	14.5%
02070 Hazardous Waste-Cercla	131,705	1.4%	161,122	1.3%	160,891	1.3%
02157 Solid Waste Management Fee	59,209	0.6%	80,306	0.6%	80,140	0.6%
02201 Air Quality-Operating Fees	417,872	4.3%	631,560	4.9%	623,557	4.9%
02203 Arco	25,339	0.3%	25,339	0.2%	25,339	0.2%
02206 Agriculture Monitoring	4,056	0.0%	4,648	0.0%	4,647	0.0%
02278 Npdes Permit Program	76,937	0.8%	82,517	0.6%	82,465	0.6%
02316 Go94B/Ban 93D Admin	56,265	0.6%	70,138	0.5%	82,728	0.6%
02388 Misc. State Special Revenue	58,957	0.6%	81,464	0.6%	81,618	0.6%
02555 Deq Alternative Energy	407	0.0%	59,883	0.5%	60,052	0.5%
02973 Univ System Benefits Program	-	-	95,859	0.7%	95,859	0.7%
03007 Doe Special Projects	67,194	0.7%	215,138	1.7%	213,944	1.7%
03033 Energy/Fsd	508,135	5.3%	859,351	6.7%	867,707	6.8%
03070 Tmdl	205,618	2.1%	-	-	-	-
03100 Epa / Drinking Water Srf	627,190	6.5%	-	-	-	-
03210 Ambient Air Amonitoring (Pm-2.5)	233,015	2.4%	283,190	2.2%	283,878	2.2%
03231 Drinking Water Srf Ffy 01	177,920	1.8%	-	-	-	-
03232 Drinking Water Srf Ffy 00	204,506	2.1%	-	-	-	-
03245 Wastewater Treatment Grant	281,416	2.9%	349,851	2.7%	412,647	3.2%
03249 Nps Implementation Grant	2,821,466	29.2%	3,391,072	26.3%	3,389,239	26.4%
03262 Epa Ppg	1,138,028	11.8%	2,270,713	17.6%	2,189,758	17.1%
03302 Wetlands Grant	344,713	3.6%	430,580	3.3%	430,558	3.4%
03608 Nutrient Criteria Pilot Project	76,696	0.8%	80,765	0.6%	80,765	0.6%
03667 Tmdl Supplemental	-	-	370,000	2.9%	370,000	2.9%
03687 Dw-Fy02	-	-	1,021,884	7.9%	1,026,745	8.0%
03695 Srfst Tribal Agrmt Grant	-	-	70,520	0.5%	70,339	0.5%
03814 Epa Water Quality 205J	94,742	1.0%	160,360	1.2%	160,730	1.3%
03815 Epa-Construction Grants	77,770	0.8%	-	-	-	-
03817 Deq Emap	76,532	0.8%	128,467	1.0%	101,046	0.8%
03818 Tmdl Special Projects	20,000	0.2%	40,000	0.3%	40,000	0.3%
03952 Epa-Srf-Dw 1998 Grant	69,199	0.7%	-	-	-	-
03953 Drinking Water Srf 99	(2,473)	0.0%	-	-	-	-
03966 Mdot-Stip/Tmdl	-	-	44,152	0.3%	44,022	0.3%
Grand Total	\$ 9,654,981	100.0%	\$ 12,887,857	100.0%	\$ 12,840,365	100.0%

This division is funded from general fund and numerous sources of state and federal special revenue. Specific funding sources for the division are shown in the following. The primary state special revenue funding sources are from air quality operating permit fees set by the Board of Environmental Quality according to 75-2-220, MCA, and 22.0 percent of interest earnings from the resource indemnity trust deposited in the Hazardous Waste/CERCLA account. This division accounts for 52.8 percent of the department's general fund request in the 2005 biennium.

The largest federal funding sources are:

- EPA performance partnership grant, which is a block grant to fund a wide-range of environmental activities
- Non-point source pollution control funding, a portion of which is used to fund the TMDL program
- EPA funding from the clean water action plan for non-point source pollution control
- Administrative costs for the drinking water state revolving fund

Present Law Adjustments									
-----Fiscal 2004-----					-----Fiscal 2005-----				
FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services				1,340,881					1,334,734
Vacancy Savings				(195,365)					(195,106)
Inflation/Deflation				5,942					7,154
Fixed Costs				87,134					99,286
<b>Total Statewide Present Law Adjustments</b>				<b>\$1,238,592</b>					<b>\$1,246,068</b>
DP 4 - RPPB Budget Adjustment	0.00	40,634	101,705	624,539	0.00	(24,077)	98,934	685,455	760,312
DP 5 - RPPB Alternative Payplan Adjustments	0.00	(101,772)	0	(19,592)	0.00	(101,772)	0	(19,592)	(121,364)
DP 6 - MDMB Base Adjustments	0.00	130,430	18,445	519,739	0.00	126,653	18,182	479,736	624,571
DP 7 - MDMB Alternative Payplan Adjustments	0.00	(18,736)	(11,153)	(39,113)	0.00	(18,736)	(11,153)	(39,113)	(69,002)
DP 8 - TFAB Budget Adjustments	0.00	(47,701)	70,895	365,394	0.00	(47,764)	71,785	362,986	387,007
DP 9 - PPB Base Adjustments	0.00	7,415	27,094	(45,292)	0.00	7,415	26,850	(42,114)	(7,849)
DP 10 - PPB Alternative Payplan Adjustments	0.00	0	(20,237)	(35,819)	0.00	0	(20,237)	(35,819)	(56,056)
DP 11 - Administration FTE and Adjustments	0.00	(25,357)	21,918	11,619	0.00	(30,745)	21,896	11,498	2,649
DP 12 - TFAB Alternative Payplan Adjustment	0.00	(1,250)	(11,271)	(108,770)	0.00	(1,250)	(11,271)	(108,770)	(121,291)
DP 43 - TMDL Supplemental Grant	1.00	0	0	370,000	1.00	0	0	370,000	370,000
DP 60 - TFAB - Universal System Benefits Charge	0.00	0	100,000	0	0.00	0	100,000	0	100,000
<b>Total Other Present Law Adjustments</b>	<b>1.00</b>	<b>(\$16,337)</b>	<b>\$297,396</b>	<b>\$1,642,705</b>	<b>1.00</b>	<b>(\$90,276)</b>	<b>\$294,986</b>	<b>\$1,664,267</b>	<b>\$1,868,977</b>
<b>Grand Total All Present Law Adjustments</b>				<b>\$3,162,356</b>					<b>\$3,115,045</b>

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

DP 4 - RPPB Budget Adjustment - The Executive Budget includes a request to re-establish the base budget for the Resource Protection and Planning Bureau. If approved, funding would be restored in several areas including the Governor's general fund reduction, federal grant funding switches, and operations funding for 5.00 FTE vacant in fiscal 2002. If approved, this DP would complete a funding switch of \$100,000 from general fund to federal funds.

#### LFD ISSUE

For further discussion, please see agency-wide issue regarding base adjustments.

DP 5 - RPPB Alternative Payplan Adjustments - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. To fund the pay increases, the department will reassign vacant positions.

#### LFD ISSUE

This program proposes to reassign a vacant position so that funding would be from fees rather than general fund. However, funding the alternative pay plan in this way tends to be short-term in nature. Please see agency wide issues related to the move to pay plan 20.

DP 6 - MDMB Base Adjustments - The Executive Budget includes a request to re-establish the base budget for the Monitoring and Data Management Bureau. 6 FTE were vacant during much of fiscal 2002 and this request would fund under-expended operating expenses related to these positions. The executive is expecting a full staff in the 2005 biennium.

**LFD  
ISSUE**

For further discussion, please see agency-wide issue regarding base adjustments.

DP 7 - MDMB Alternative Payplan Adjustments - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. To fund these activities, the department is planning on purchasing less air monitoring equipment, delaying the hiring of FTE, and decreasing contracted services.

**LFD  
ISSUE**

This program proposes to delay hiring positions to fund pay plan 20 increases. Although reductions are made, funding the alternative pay plan in this way tends to be short-term in nature. Please see agency wide issues related to the move to pay plan 20.

DP 8 - TFAB Budget Adjustments - The Executive Budget includes a request to re-establish the base budget for the Technical and Financial Assistance Bureau. 4 FTE were vacant for part of fiscal 2002 resulting in expenditures below budget levels. In addition, contracted services were under-spent. If approved this base adjustment would restore these operating expenses.

**LFD  
ISSUE**

For further discussion, please see agency-wide issue regarding base adjustments.

DP 9 - PPB Base Adjustments - The Executive Budget includes a request to re-establish the base budget for the Pollution Prevention Bureau. The request includes a decrease in revenue for the Source Water Protection Program and a corresponding decrease in contracts that will be issued in fiscal 2004 and fiscal 2005 for this activity. In addition to the decrease, 2.00 FTE were vacant for part of fiscal 2002. Increases are requested in operating expenses for these vacancies in the categories of supplies, communications, travel and other services. If approved, all adjustments would result in a net decrease for the Pollution Prevention Bureau.

**LFD  
ISSUE**

For further discussion, please see agency-wide issue regarding base adjustments.

DP 10 - PPB Alternative Payplan Adjustments - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. To fund these activities, the department is planning on delaying the hiring of FTE and not hiring interns.

**LFD  
ISSUE**

This program proposes to delay hiring positions to fund pay plan 20 increases. Although reductions are made, funding the alternative pay plan in this way tends to be short-term in nature. Please see agency-wide issues related to the move to pay plan 20.

DP 11 - Administration FTE and Adjustments - The Executive Budget includes a request to re-establish the base budget for the Administrative and Fiscal Unit. The Fiscal Unit experienced the turnover of several positions during fiscal 2002. In addition, to implement targeted general fund reductions, three adjustments would be made: 1) a funding switch from general fund to state special revenue for division management and fiscal support functions -- \$20,000; 2) eliminate one vacant accounting technician position (555); and 3) eliminate \$25,000 of general fund used to match federal funds for special projects.

**LFD  
ISSUE**

For further discussion, please see agency-wide issue regarding base adjustments.

DP 12 - TFAB Alternative Payplan Adjustments - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. To fund these activities, the department is planning on delaying the hiring of FTE, reducing contracted services, and reducing purchase of minor equipment.

**LFD  
ISSUE**

This program proposes to delay hiring positions to fund pay plan 20 increases. Although reductions are made, funding the alternative pay plan in this way tends to be short-term in nature. Please see agency wide issues related to the move to pay plan 20.

DP 43 - TMDL Supplemental Grant - The Executive Budget includes a request for authority to spend EPA grant funds to assist meeting court-mandated total maximum daily loads (TMDLs) schedules. The EPA is expected to direct \$370,000 of funding to the executive to improve completion of and to meet the court-mandated TMDL schedule for Montana. This funding comes without match requirements, and would be used to fund 1.00 FTE TMDL position. The majority of funding would be used for contracted services because the workload to comply with the federal district court schedule exceeds the capabilities projected of a fully staffed program.

DP 60 - TFAB - Universal System Benefits Charge - The Executive Budget includes a request for biennial appropriation authority that would be used for renewable energy development. The legislature established a Universal System Benefit (USB) Charge to fund social benefits such as low-income energy assistance, weatherization, energy efficiency, and renewable energy development that may not be funded through the market place. USB charges are collected from end customers by Northwestern Energy (formerly Montana Power Company) and Montana Dakota Utilities (MDU). According to statute, any unspent funds are allocated annually to DEQ to be used for qualifying public services. The executive anticipates receiving unspent funds from MDU and this request would serve as a placeholder should this occur.

New Proposals										
Program	FTE	Fiscal 2004				Fiscal 2005				Total Funds
		General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	
DP 62 - TFAB STAG Grant										
20	1.00	0	0	70,520	70,520	1.00	0	0	70,339	70,339
<b>Total</b>	<b>1.00</b>	<b>\$0</b>	<b>\$0</b>	<b>\$70,520</b>	<b>\$70,520</b>	<b>1.00</b>	<b>\$0</b>	<b>\$0</b>	<b>\$70,339</b>	<b>\$70,339</b>

### New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

DP 62 - TFAB STAG Grant - The Executive Budget includes a request to add 1.00 FTE to provide technical assistance to community water and wastewater systems. If approved, this proposal would fund 1.00 FTE in federal funds for the 2005 biennium to administer the EPA's State Tribal Assistance Grant (STAG) program projects. EPA's goal is to have states

integrate management of the State Revolving Fund (SRF) programs with the oversight of the special STAG projects. These special STAG projects would help address water and wastewater public facility needs in Montana. The executive received the funding to provide project management and technical assistance for the design, construction, and operation of public water and wastewater facilities funded with STAG monies over a period of approximately five years (fiscal 2003 through fiscal 2007).

**Language Recommendations**Transfer Between Fund Types

The executive recommends language in HB 2 that would allow the agency to transfer funding between fund types when certain conditions are met.

"The department is authorized to decrease federal special revenue money in the water pollution control and/or drinking water revolving fund loan programs and increase state special revenue money by a like amount within the special administration account when the amount of federal capitalization funds have been expended or federal funds and bond proceeds will be used for other program purposes."



Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	14.00	0.00	0.00	14.00	0.00	0.00	14.00	14.00
Personal Services	606,481	62,518	0	668,999	61,393	0	667,874	1,336,873
Operating Expenses	263,667	26,397	0	290,064	35,582	0	299,249	589,313
<b>Total Costs</b>	<b>\$870,148</b>	<b>\$88,915</b>	<b>\$0</b>	<b>\$959,063</b>	<b>\$96,975</b>	<b>\$0</b>	<b>\$967,123</b>	<b>\$1,926,186</b>
General Fund	464,433	15,256	(65,000)	414,689	18,866	(65,000)	418,299	832,988
State/Other Special	142,824	16,115	55,000	213,939	18,147	55,000	215,971	429,910
Federal Special	262,891	57,544	10,000	330,435	59,962	10,000	332,853	663,288
<b>Total Funds</b>	<b>\$870,148</b>	<b>\$88,915</b>	<b>\$0</b>	<b>\$959,063</b>	<b>\$96,975</b>	<b>\$0</b>	<b>\$967,123</b>	<b>\$1,926,186</b>

### Program Description

The Enforcement Division is the central control for activities designed to facilitate the enforcement of the statutes and regulations administered by the department. The division develops department enforcement policies and procedures for approval by the director and ensures they are implemented in a consistent manner across the department. In addition, the division maintains a citizen complaint clearinghouse and information tracking system. The division coordinates the legal and technical aspects of enforcement cases, both administrative and judicial, and monitors violators to determine compliance with department orders.

### Program Narrative

Enforcement Division Major Program Highlights	
○	Proposing legislation to re-earmark fine, fee, and penalty revenue
Major LFD Issues	
○	Reclamation and Development is used as a funding source, which is projected to have a significant negative balance at the end of the 2005 biennium
○	Re-earmarked funds do not create a general fund decrease

**Funding**

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

<b>Program Funding Table Enforcement Division</b>						
<b>Program Funding</b>	<b>Base Fiscal 2002</b>	<b>% of Base Fiscal 2002</b>	<b>Budget Fiscal 2004</b>	<b>% of Budget Fiscal 2004</b>	<b>Budget Fiscal 2005</b>	<b>% of Budget Fiscal 2005</b>
01100 General Fund	\$ 464,433	53.4%	\$ 414,689	43.2%	\$ 418,299	43.3%
02075 Ust Leak Prevention Program	45,597	5.2%	49,599	5.2%	49,975	5.2%
02162 Environmental Quality Protecti	3,934	0.5%	-	-	-	-
02201 Air Quality-Operating Fees	47,450	5.5%	105,869	11.0%	106,252	11.0%
02204 Public Drinking Water	11,519	1.3%	20,720	2.2%	21,709	2.2%
02278 Npdes Permit Program	30,520	3.5%	33,037	3.4%	33,286	3.4%
02458 Reclamation & Development	3,804	0.4%	4,714	0.5%	4,749	0.5%
03067 Dsl Federsl Reclamation Grant	16,465	1.9%	17,303	1.8%	17,434	1.8%
03228 L.U.S.T./Trust	29,825	3.4%	36,127	3.8%	36,399	3.8%
03249 Nps Implementation Grant	44,223	5.1%	52,701	5.5%	53,099	5.5%
03262 Epa Ppg	<u>172,378</u>	<u>19.8%</u>	<u>224,304</u>	<u>23.4%</u>	<u>225,921</u>	<u>23.4%</u>
Grand Total	\$ 870,148	100.0%	\$ 959,063	100.0%	\$ 967,123	100.0%

This division is funded primarily with general fund and federal funds, with various state special revenue sources that are used for enforcement activity.

**LFD  
ISSUE**

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

Present Law Adjustments									
-----Fiscal 2004-----					-----Fiscal 2005-----				
FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services				90,394					89,219
Vacancy Savings				(27,876)					(27,826)
Inflation/Deflation				708					1,491
Fixed Costs				2,923					4,566
<b>Total Statewide Present Law Adjustments</b>				<b>\$66,149</b>					<b>\$67,450</b>
DP 13 - Enforcement Budget Adjustments									
0.00	35,812	11,435	23,873	71,120	0.00	38,776	12,381	25,848	77,005
DP 14 - Enforcement Alternative Payplan									
0.00	(27,088)	(8,651)	(18,059)	(53,798)	0.00	(27,088)	(8,651)	(18,059)	(53,798)
DP 73 - Enforcement Lease Vehicle									
0.00	0	5,444	0	5,444	0.00	0	6,318	0	6,318
<b>Total Other Present Law Adjustments</b>									
0.00	<b>\$8,724</b>	<b>\$8,228</b>	<b>\$5,814</b>	<b>\$22,766</b>	<b>0.00</b>	<b>\$11,688</b>	<b>\$10,048</b>	<b>\$7,789</b>	<b>\$29,525</b>
<b>Grand Total All Present Law Adjustments</b>				<b>\$88,915</b>					<b>\$96,975</b>

**Executive Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

**DP 13 - Enforcement Budget Adjustments** - The Executive Budget includes a request for a base adjustment to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. This adjustment would be used to fund database conversion, operation, and maintenance that was not completed in fiscal 2002 and fiscal 2003, legal service fees, and contested enforcement cases. Additional funds are also requested to fund indirect charges due to a prior year adjustment of \$8,381 that was not reflected in the fiscal 2002 base.

**LFD  
ISSUE**

For further discussion, please see agency-wide issue regarding base adjustments.

**LFD  
ISSUE**

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

**DP 14 - Enforcement Alternative Payplan** - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. According to the executive, out of state travel will be eliminated, database contracted services and minor supply purchases will be reduced to fund the pay plan.

**LFD  
ISSUE**

Please see agency wide issues related to the move to pay plan 20.

**DP 73 - Enforcement Lease Vehicle** - The Executive Budget includes a request for a lease vehicle for the Enforcement Division. If approved, this proposal would replace an owned vehicle with a leased vehicle.

**LFD  
ISSUE**

For further discussion, please see agency-wide issue regarding base adjustments.

New Proposals										
Program	FTE	Fiscal 2004				FTE	Fiscal 2005			
		General	State Special	Federal Special	Total Funds		General	State Special	Federal Special	Total Funds
DP 8013 - Enforcement Reduction & Fund Switch										
30	0.00	(65,000)	55,000	10,000	0	0.00	(65,000)	55,000	10,000	0
<b>Total</b>	<b>0.00</b>	<b>(\$65,000)</b>	<b>\$55,000</b>	<b>\$10,000</b>	<b>\$0</b>	<b>0.00</b>	<b>(\$65,000)</b>	<b>\$55,000</b>	<b>\$10,000</b>	<b>\$0</b>

### New Proposals

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

**DP 8013 - Enforcement Reduction & Fund Switch** - The Executive Budget includes a request to reduce general fund authority through a funding switch. If approved, statutory changes would be restricted in the following areas:

- Legislation to earmark of Air Quality Act penalties to reduce general fund is described as follows:  
Administrative penalties (75-2-401(3)(b)) and civil penalties (75-2-413(4)) collected under the Clean Air Act of Montana are deposited in the alternative energy revolving loan account established in 75-25-101 MCA. If

approved, this proposal would require legislation to continue to deposit 50 percent of the penalties into the loan account and deposit 50 percent into the state special revenue account (02201) for implementation of the air quality permit program. Projected penalties are estimated to be \$120,000 for each year of the 2005 biennium. In addition the legislation would reallocate air quality fees to Program 30 (estimated \$60,000 annually) and reduce an equal amount of Program 30 general fund (estimated \$60,000).

According to the department, if general fund is reduced, and the air quality fee money is not allowed to replace it, the department's capability to investigate citizen complaints, collect evidence to document violations, evaluate spills that threaten the environment, and process formal enforcement cases would be reduced. Some investigations that normally require a field trip will not be conducted. Some citizen complaints will not be addressed. The processing of formal enforcement cases will slow and formal enforcement actions will not be initiated for some violations. If formal enforcement slows, the department's ability to seek a penalty for violations older than two years will be lost due to the two-year statute of limitations of penalty assessment.

- A funding switch of \$20,000 for the biennium from general fund to EPA grant additional funds is described as follows:

According to the department, this funding switch would allow an increase in EPA grant money to offset a decrease in general fund. If general fund is reduced, and the EPA grant money is not allowed to replace it, DEQ's capability to investigate citizen complaints, collect evidence to document violations, evaluate spills that threaten the environment, and process formal enforcement cases would be lowered, investigations that require a field trip would not be conducted, some citizen complaints would not be addressed, the processing of formal enforcement cases would slow, and formal enforcement actions would not be initiated for some violations. According to the executive, if formal enforcement slows, DEQ's ability to seek a penalty for violations older than two years would be lost due to the two-year statute of limitations of penalty assessment.

**LFD  
ISSUE**

As proposed, this request would utilize revenue sources derived from fines, fees, and penalties that are de-earmarked to the general fund. When a funding source derives income from fines, fees, or penalties, the legislature routinely reviews these funds to determine if they are candidates for de-earmarking under 17-1-505, MCA. Historically, this has been done to avoid directly funding enforcement activities with fines. When these funding sources are de-earmarked, the department has the opportunity to seek a general fund appropriation for these purposes.

If the legislature chooses to approve this appropriation, it should be aware that no general fund would be saved. Although a general fund appropriation would not be sought, a similar amount of general fund would be diverted into the state special revenue fund for the same purpose. Thus, even though the funding appears to come from state special revenue, revenues to the general fund are reduced.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	82.75	1.25	0.00	84.00	1.25	0.00	84.00	84.00
Personal Services	2,817,221	1,114,501	0	3,931,722	1,114,638	0	3,931,859	7,863,581
Operating Expenses	5,660,531	1,275,451	111,111	7,047,093	677,766	0	6,338,297	13,385,390
Equipment	0	0	0	0	0	0	0	0
Grants	0	0	0	0	0	0	0	0
Benefits & Claims	1,364,619	(264,619)	0	1,100,000	(264,619)	0	1,100,000	2,200,000
Debt Service	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$9,842,371</b>	<b>\$2,125,333</b>	<b>\$111,111</b>	<b>\$12,078,815</b>	<b>\$1,527,785</b>	<b>\$0</b>	<b>\$11,370,156</b>	<b>\$23,448,971</b>
State/Other Special	4,058,044	959,731	11,111	5,028,886	675,022	0	4,733,066	9,761,952
Federal Special	5,784,327	1,165,602	100,000	7,049,929	852,763	0	6,637,090	13,687,019
<b>Total Funds</b>	<b>\$9,842,371</b>	<b>\$2,125,333</b>	<b>\$111,111</b>	<b>\$12,078,815</b>	<b>\$1,527,785</b>	<b>\$0</b>	<b>\$11,370,156</b>	<b>\$23,448,971</b>

### Program Description

The Remediation Division is responsible for: 1) overseeing investigation and cleanup activities at state and federal superfund sites; 2) reclaiming abandoned mine lands; 3) regulating, permitting, and licensing underground storage tanks (UST); 4) implementing corrective actions for remediation of releases and spills from leaking USTs; 5) providing staff support for processing eligibility applications and claims submitted to the Petroleum Tank Release Compensation Board for cleanup funds; and 6) overseeing groundwater remediation at sites where agricultural and industrial chemical spills have caused groundwater contamination. The purposes of these activities are to: 1) protect human health and the environment; 2) prevent exposure of potential human and ecological receptors to hazardous or deleterious substances that have been released to soil, sediment, surface water, or groundwater; and 3) ensure compliance with applicable state and federal regulations. The division is comprised of three bureaus: Hazardous Waste Site Cleanup Bureau, Mine Waste Cleanup Bureau, and the Technical Services Bureau. The division works closely with the Petroleum Tank Release Compensation Board, which provides financial assistance for cleanup of petroleum contaminated leaking UST sites. The Petroleum Tank Release Compensation Board is attached to the Department of Environmental Quality for administrative purposes.

### Program Narrative

Remediation Division Major Program Highlights	
<ul style="list-style-type: none"> <li>o Requesting reductions to fund pay increases given as part of the transition to pay plan 20</li> <li>o Requesting base adjustments because of under spending due to vacant positions</li> <li>o Seeking to re-establish FTE removed because of long-term vacancies</li> </ul>	
Major LFD Issues	
<ul style="list-style-type: none"> <li>o Some reductions to fund pay increases associated with the transition to pay plan 20 are short-term in nature</li> <li>o Number of base adjustments should decrease if pay increases associated with the move to pay plan 20 improve recruitment and retention efforts</li> </ul>	

### Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

Program Funding Table Remediation Division						
Program Funding	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005
02054 Ust-Installer Lic & Permit Acc	\$ 69,786	0.7%	\$ 81,945	0.7%	\$ 82,031	0.7%
02058 Petroleum Storage Tank Cleanup	1,470,405	14.9%	1,811,604	15.0%	1,856,683	16.3%
02064 Bn Activity	2,305	0.0%	-	-	-	-
02070 Hazardous Waste-Cercla	160,138	1.6%	236,470	2.0%	187,562	1.6%
02075 Ust Leak Prevention Program	295,944	3.0%	339,076	2.8%	341,898	3.0%
02162 Environmental Quality Protecti	653,160	6.6%	1,099,998	9.1%	803,197	7.1%
02203 Arco	2,305	0.0%	2,221	0.0%	2,223	0.0%
02206 Agriculture Monitoring	2,636	0.0%	10,000	0.1%	10,002	0.1%
02325 Circle K Remediation	10,907	0.1%	12,497	0.1%	12,514	0.1%
02472 Orphan Share Fund	1,390,458	14.1%	1,331,049	11.0%	1,333,247	11.7%
02520 Sst/Ou Remedial Action	-	-	104,026	0.9%	103,709	0.9%
03036 Deq - Federal Aml Grant	3,228,185	32.8%	3,454,092	28.6%	3,507,151	30.8%
03222 Superfund Lockwood Sol Site	430,944	4.4%	408,181	3.4%	363,766	3.2%
03228 L.U.S.T./Trust	558,390	5.7%	1,084,701	9.0%	642,410	5.6%
03256 Superfund Core	313,404	3.2%	359,729	3.0%	360,965	3.2%
03257 Superfund Multi-Site	942,177	9.6%	1,403,969	11.6%	1,423,079	12.5%
03262 Epa Ppg	294,644	3.0%	321,490	2.7%	321,931	2.8%
03663 Aml Special Projects	<u>16,583</u>	<u>0.2%</u>	<u>17,767</u>	<u>0.1%</u>	<u>17,788</u>	<u>0.2%</u>
Grand Total	<u>\$ 9,842,371</u>	<u>100.0%</u>	<u>\$ 12,078,815</u>	<u>100.0%</u>	<u>\$ 11,370,156</u>	<u>100.0%</u>

State special funding sources include: 1) revenue from the \$0.0075 gas tax for petroleum tank cleanup; 2) 7.5 percent of the state Resource Indemnity Trust (RIT) interest (deposited to the environmental quality protection fund); 3) a portion of the resource indemnity and groundwater tax revenues (deposited to the orphan share account); and 4) underground storage tank registration fees.

Federal funding sources include: 1) a federal tax on Montana's coal production of which up to 50 percent is returned to the state for abandoned mine reclamation; and 2) money from the U.S. Environmental Protection Agency (including superfund, leaking underground storage tank trust, and performance partnership grants).

#### LFD ISSUE

This program proposes to use Resource Indemnity Trust (RIT) funding sources (reclamation and development, and orphan share accounts). These accounts are projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

Present Law Adjustments										
-----Fiscal 2004-----					-----Fiscal 2005-----					
	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services					1,147,920					1,148,179
Vacancy Savings					(158,613)					(158,610)
Inflation/Deflation					5,523					9,453
Fixed Costs					115,469					124,236
<b>Total Statewide Present Law Adjustments</b>					<b>\$1,110,299</b>					<b>\$1,123,258</b>
DP 15 - HWSC - Budget Adjustments	0.00	0	(147,322)	159,520	12,198	0.00	0	(147,324)	174,257	26,933
DP 16 - MWCB Base Adjustment	0.00	0	30,000	40,041	70,041	0.00	0	31,632	46,439	78,071
DP 17 - TSB - Budget Adjustments	0.00	0	62,652	(16,793)	45,859	0.00	0	69,343	(16,793)	52,550
DP 41 - Re-establish 1.25 FTE	1.25	0	7,793	36,685	44,478	1.25	0	40,795	3,615	44,410
DP 53 - HWSC - LUST Contracted Services - OTO	0.00	0	34,500	310,500	345,000	0.00	0	0	0	0
DP 54 - MWCB - Libby Asbestos Removal	0.00	0	0	145,000	145,000	0.00	0	0	145,000	145,000
DP 66 - Petro Board Contracts Budget Adjustment	0.00	0	65,000	0	65,000	0.00	0	65,000	0	65,000
DP 71 - TSB - Database Consolidation - OTO Restricted	0.00	0	23,500	36,500	60,000	0.00	0	23,500	36,500	60,000
DP 81 - HWSC - EQPF Legal Contracts	0.00	0	300,000	0	300,000	0.00	0	0	0	0
DP 82 - MWCB - 2.00 FTE Aggregate	0.00	0	0	86,000	86,000	0.00	0	0	86,000	86,000
DP 83 - HWSC - Alternative Payplan Adjustment	0.00	0	(53,857)	(3,215)	(57,072)	0.00	0	(53,857)	(3,215)	(57,072)
DP 84 - MWCB - Alternative Payplan Adjustment	0.00	0	0	(60,000)	(60,000)	0.00	0	0	(60,000)	(60,000)
DP 85 - TSB - Alternative Payplan Adjustment	0.00	0	(21,403)	(5,881)	(27,284)	0.00	0	(21,403)	(5,881)	(27,284)
DP 86 - FAS - Base Adjustments	0.00	0	7,149	5,127	12,276	0.00	0	10,122	7,259	17,381
DP 87 - FAS - Alternative Payplan Adjustment	0.00	0	(15,408)	(11,054)	(26,462)	0.00	0	(15,408)	(11,054)	(26,462)
<b>Total Other Present Law Adjustments</b>	<b>1.25</b>	<b>\$0</b>	<b>\$292,604</b>	<b>\$722,430</b>	<b>\$1,015,034</b>	<b>1.25</b>	<b>\$0</b>	<b>\$2,400</b>	<b>\$402,127</b>	<b>\$404,527</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$2,125,333</b>					<b>\$1,527,785</b>

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

DP 15 - HWSC - Budget Adjustments - The Executive Budget includes a base adjustment for the Hazardous Waste Site Cleanup Bureau. According to the executive, staff vacancies resulted in an under-spending of several expenditure categories.

#### LFD ISSUE

In DP 15 above, and DPs 16, 17, and 86 below, the executive has requested base adjustments to fully fund programs because of under-spending due to staff vacancies over the last couple of biennia. The department expects to see fewer vacancies because of the implementation of pay plan 20. The legislature may wish to direct the department to track recruitment and retention trends now that they have moved to pay plan 20. If recruitment and retention improves, the legislature might expect to see fewer "base adjustment" decision packages in future biennia. For a further discussion of pay plan 20 and base adjustments, please see the agency overview section.

DP 16 - MWCB Base Adjustment - The Executive Budget includes base adjustments for the Mine Waste Cleanup Bureau. According to the executive, staff vacancies resulted in an under-spending of several expenditure categories.

**LFD  
ISSUE**

See the discussion, under DP 15.

DP 17 - TSB - Budget Adjustments - The Executive Budget includes base adjustments for the Technical Services Bureau. According to the executive, staff vacancies resulted in an under-spending of several expenditure categories.

**LFD  
ISSUE**

Issue - See the discussion, under DP 15.

DP 41 - Re-establish 1.25 FTE - The Executive Budget includes a request to re-establish 1.25 FTE in the Petroleum Release and Fiscal and Administrative Services sections. The 1.0 FTE was eliminated due to a long-term vacancy and was converted to a modified FTE and eventually filled. The position remains filled as a modified position and it provides technical expertise to new staff and drafts technical policies for the program.

The second position was temporarily reduced to .75 FTE to accommodate the needs of the employee. Due to the prolonged vacancy, the original .25 FTE reduction was converted into a modified FTE. If approved, the .25 FTE would be combined with the duties of the .75 FTE position to create 1.00 FTE. The executive is requesting permanent funding for both positions.

DP 53 - HWSC - LUST Contracted Services - OTO - The Executive Budget includes a request for increased spending authority for Leaking Underground Storage Tank Program site clean up. Federal Leaking Underground Storage Tanks (LUST) Trust grant carryover funds are available and EPA is mandating that the department spend these funds in the next biennium. Revenue is available to increase present law federal expenditures by \$345,000 for the 2005 biennium. If approved, the funding would augment current efforts to investigate and cleanup LUST sites where a responsible party is unable to or unwilling to do the work, or where no responsible party can be identified.

**LFD  
COMMENT**

At the request of the executive, the legislature may wish to designate the authority as one-time-only in nature.

DP 54 - MWCB - Libby Asbestos Removal - The Executive Budget includes a request for a base adjustment for Libby asbestos removal. The EPA is addressing the Libby Asbestos project as a removal action until long-term plans are developed. It is currently evaluating sample data collected in and around Libby associated with past mining and related asbestos problems. The site is proposed for the national priority list and the EPA will be the lead agency with the department providing support. According to the executive, not as much work was completed in fiscal 2002 as anticipated. This base adjustment allows for additional travel and contracted services not expended in the base year. Due to federal delays in site listing, this position has not been filled. If approved, funding for this FTE and related operations would also be included.

DP 66 - Petro Board Contracts Budget Adjustment - The Executive Budget includes a request for a base adjustment for the Petroleum Board contract. An additional \$65,000 is requested to fund the board's subrogation contract. Under this contract, insurance companies and other responsible parties will be sought to reimburse the Petroleum Tank Release Compensation Board for past board expenditures.

DP 71 - TSB - Database Consolidation - OTO Restricted - The Executive Budget includes a request for database



consolidation and maintenance in the Technical Service Bureau (TSB) in conjunction with long-term plans for conversion to Oracle.

**LFD  
COMMENT**

At the request of the executive, the legislature may wish to designate this request as restricted, one-time-only authority.

DP 81 - HWSC - EQPF Legal Contracts - The Executive Budget includes a request for authority to spend environmental quality protection fund money for outside legal contracts. If approved, outside counsel would be contracted to pursue a cost recovery action at sites such as Block P Mines & Mill, Upper Blackfoot Mining Complex, and the Lockwood Solvent Site.

**LFD  
COMMENT**

The executive is seeking a biennial, restricted, one-time-only appropriation for these purposes. If approved, the legislature may wish to make these designations.

DP 82 - MWCB - 2.00 FTE Aggregate - The Executive Budget includes a request to add FTE to the Mine Waste Cleanup Bureau. Funding for 1.00 FTE was approved last legislative session.

DP 83 - HWSC - Alternative Payplan Adjustment - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. The department indicates that they would utilize fewer outside remediation contracts and holding vacant positions open for extended periods of time.

**LFD  
ISSUE**

In DP 83 above, and in DP 84, 85, and 87 below, the executive is proposing to utilize vacant positions to fund the alternative pay plan. While using this method to fund the pay plan reduces expenditures in the short-run, in the long run the legislature will be faced with increased costs associated with personal services. Please see agency-wide issues related to the move to pay plan 20.

DP 84 - MWCB - Alternative Payplan Adjustment - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. The department indicates that they would utilize fewer outside remediation contracts and holding vacant positions open for extended periods of time.

DP 85 - TSB - Alternative Payplan Adjustment - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. The department indicates that they would utilize fewer outside remediation contracts and holding vacant positions open for extended periods of time.

DP 86 - FAS - Base Adjustments - The Executive Budget includes a request for a base adjustment in the Fiscal and Administrative Services Bureau. According to the executive, staff vacancies resulted in expenditure categories such as supplies, telephone charges, travel, and training being under-spent in the base year.

**LFD  
ISSUE**

See the discussion, under DP 15.

DP 87 - FAS - Alternative Payplan Adjustment - The Executive Budget includes a request to fund pay increases associated with a department-wide move to pay plan 20. The department indicates that they would utilize fewer outside remediation contracts and holding vacant positions open for extended periods of time.

**LFD  
ISSUE**

The executive is proposing to utilize vacant positions to fund the alternative pay plan. While using this method to fund the pay plan reduces expenditure in the short-run, in the long run the legislature will be faced with increased costs associated with personal services. Please see agency wide issues related to the move to pay plan 20.

New Proposals										
-----Fiscal 2004-----						-----Fiscal 2005-----				
Program	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
DP 65 - HWSC - UST Fields Site Billings Cleanup - OTO										
	40	0.00	0	11,111	100,000	111,111	0.00	0	0	0
<b>Total</b>	<b>0.00</b>	<b>\$0</b>	<b>\$11,111</b>	<b>\$100,000</b>	<b>\$111,111</b>	<b>0.00</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**New Proposals**

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

DP 65 - HWSC - UST Fields Site Billings Cleanup - OTO - The Executive Budget includes a request for authority to spend federal EPA funding made available for cleanup of abandoned underground storage tank (UST) sites. If approved, this pilot project would be used to cleanup multiple abandoned service stations along the 1st Avenue South corridor in Billings. The City of Billings and DEQ would be cooperative partners in this ongoing effort that would be know as the UST Fields project.

**LFD  
COMMENT**

At the request of the executive, the legislature may wish to designate this request as biennial, restricted, and one-time-only in nature.

Program Proposed Budget								
Budget Item	Base Budget Fiscal 2002	PL Base Adjustment Fiscal 2004	New Proposals Fiscal 2004	Total Exec. Budget Fiscal 2004	PL Base Adjustment Fiscal 2005	New Proposals Fiscal 2005	Total Exec. Budget Fiscal 2005	Total Exec. Budget Fiscal 04-05
FTE	159.70	6.00	(2.00)	163.70	6.00	(2.00)	163.70	163.70
Personal Services	6,241,775	1,434,109	(109,908)	7,565,976	1,433,021	(109,624)	7,565,172	15,131,148
Operating Expenses	14,103,255	32,646,165	(893,218)	45,856,202	(8,548,209)	106,572	5,661,618	51,517,820
Equipment	35,931	(23,592)	0	12,339	(23,592)	0	12,339	24,678
Grants	1,036,769	273,888	0	1,310,657	293,866	0	1,330,635	2,641,292
Debt Service	0	0	0	0	0	0	0	0
<b>Total Costs</b>	<b>\$21,417,730</b>	<b>\$34,330,570</b>	<b>(\$1,003,126)</b>	<b>\$54,745,174</b>	<b>(\$6,844,914)</b>	<b>(\$3,052)</b>	<b>\$14,569,764</b>	<b>\$69,314,938</b>
General Fund	1,155,004	52,454	(229,626)	977,832	50,916	(229,552)	976,368	1,954,200
State/Other Special	17,280,520	28,924,102	(923,500)	45,281,122	(8,312,692)	76,500	9,044,328	54,325,450
Federal Special	2,982,206	5,354,014	150,000	8,486,220	1,416,862	150,000	4,549,068	13,035,288
<b>Total Funds</b>	<b>\$21,417,730</b>	<b>\$34,330,570</b>	<b>(\$1,003,126)</b>	<b>\$54,745,174</b>	<b>(\$6,844,914)</b>	<b>(\$3,052)</b>	<b>\$14,569,764</b>	<b>\$69,314,938</b>

### Program Description

The Permitting and Compliance Division administers all DEQ permitting and compliance activities that relate to 25 state regulatory and five related federal authorities. The division: 1) reviews and assesses environmental permit applications (coordinating with other state, local, and federal agencies) to determine control measures needed to ensure compliance with the law and to prevent land, water, and air conditions detrimental to public health welfare, safety and the environment; 2) prepares supporting environmental documents under the Montana Environmental Policy Act and provides training and technical assistance when needed; 3) inspects to determine compliance with permit conditions, laws and rules; and 4) when compliance problems are discovered, provides assistance to resolve the facility's compliance issues, in close coordination with Enforcement Division. Activities are organized in the Air & Waste Management Bureau (air, asbestos, hazardous waste); Community Services Bureau (solid waste, junk vehicles, public water supply, waste water operators); Environmental Management Bureau (hard rock, facility siting); Industrial and Energy Minerals Bureau (coal, uranium, opencut); and Water Protection Bureau (subdivisions, water).

### Program Narrative

Permitting and Compliance Division	
Major Program Highlights	
<ul style="list-style-type: none"> <li>○ The division proposes to use the reclamation and development account as a funding source</li> <li>○ Requesting reductions to fund pay increases given as part of the transition to pay plan 20</li> <li>○ Requesting base adjustments because of under spending due to vacant positions</li> </ul>	
Major LFD Issues	
<ul style="list-style-type: none"> <li>○ Some pay plan 20 adjustments would be short-term in nature</li> <li>○ Number of base adjustments should decrease if pay increases associated with the move to pay plan 20 improve recruitment and retention efforts</li> <li>○ The reclamation and development fund is projected to have a significant negative balance at the end of the 2005 biennium</li> </ul>	

### Funding

The following table shows program funding, by source, for the base year and for the 2005 biennium as recommended by the Governor.

Program Funding Table Permitting & Compliance Div.						
Program Funding	Base Fiscal 2002	% of Base Fiscal 2002	Budget Fiscal 2004	% of Budget Fiscal 2004	Budget Fiscal 2005	% of Budget Fiscal 2005
01100 General Fund	\$ 1,155,004	5.4%	\$ 977,832	1.8%	\$ 976,368	6.7%
02065 Washington Gulch Bond Forfeit	218,372	1.0%	218,372	0.4%	-	-
02067 C R Kendall Bond Forfeiture	21,869	0.1%	1,871,869	3.4%	-	-
02070 Hazardous Waste-Cercla	480,285	2.2%	526,971	1.0%	527,406	3.6%
02096 Reclamation - Bond Forfeitures	38,216	0.2%	2,617,574	4.8%	-	-
02130 Zort/Land Explor Bond Forf	76,848	0.4%	276,848	0.5%	-	-
02138 Zort/Land Open Cut Bond Forf	46,268	0.2%	191,268	0.3%	-	-
02157 Solid Waste Management Fee	482,836	2.3%	549,528	1.0%	554,247	3.8%
02201 Air Quality-Operating Fees	1,692,021	7.9%	1,947,040	3.6%	1,948,989	13.4%
02202 Asbestos Control	147,148	0.7%	197,042	0.4%	194,872	1.3%
02204 Public Drinking Water	641,409	3.0%	747,918	1.4%	750,943	5.2%
02278 Npdes Permit Program	697,258	3.3%	804,767	1.5%	810,569	5.6%
02418 Subdivision Plat Review	563,301	2.6%	1,027,711	1.9%	1,032,673	7.1%
02420 Bd Of Cert For W&Ww Op	87,526	0.4%	108,420	0.2%	108,917	0.7%
02421 Hazardous Waste Fees	23,389	0.1%	111,490	0.2%	21,524	0.1%
02428 Major Facility Siting	458,871	2.1%	300,000	0.5%	-	-
02438 Pegasus-Beal Mountain	1,320,764	6.2%	1,475,764	2.7%	-	-
02458 Reclamation & Development	1,296,535	6.1%	1,526,604	2.8%	1,531,681	10.5%
02521 Pegasus Bankruptcy/Operations	656,640	3.1%	2,119,282	3.9%	-	-
02845 Junk Vehicle Disposal	1,114,244	5.2%	1,530,893	2.8%	1,552,507	10.7%
02940 Pegasus-Basin	513,688	2.4%	1,413,688	2.6%	-	-
02945 Zortman Reclamation-Comp Bid	2,833,140	13.2%	6,333,140	11.6%	-	-
02946 Landusky Reclamation-Comp Bid	3,866,779	18.1%	13,866,779	25.3%	-	-
02954 Septage Fees	2,959	0.0%	10,000	0.0%	10,000	0.1%
02960 Glacier General Insurance Co	154	0.0%	8,154	0.0%	-	-
02988 Hard Rock Mining Reclamation	-	-	5,500,000	10.0%	-	-
03040 Operator Training Reim	11,206	0.1%	548,356	1.0%	598,998	4.1%
03067 Dsl Federsl Reclamation Grant	810,824	3.8%	1,100,128	2.0%	1,105,775	7.6%
03100 Epa / Drinking Water Srf	264	0.0%	-	-	-	-
03231 Drinking Water Srf Ffy 01	-	-	334,454	0.6%	334,963	2.3%
03232 Drinking Water Srf Ffy 00	165,225	0.8%	154,474	0.3%	154,015	1.1%
03249 Nps Implementation Grant	75,011	0.4%	95,564	0.2%	96,228	0.7%
03262 Epa Ppg	1,855,247	8.7%	2,103,244	3.8%	2,109,089	14.5%
03326 Blm For Zortman & Landusky	-	-	2,000,000	3.7%	-	-
03672 Forest Service - Beal Mtn	-	-	2,000,000	3.7%	-	-
03798 Homeland Water System Security	-	-	150,000	0.3%	150,000	1.0%
03952 Epa-Srf-Dw 1998 Grant	2,054	0.0%	-	-	-	-
03953 Drinking Water Srf 99	62,375	0.3%	-	-	-	-
Grand Total	\$ 21,417,730	100.0%	\$ 54,745,174	100.0%	\$ 14,569,764	100.0%

This division is funded from general fund and numerous sources of state and federal special revenue. General fund is used primarily for activities concerning hard rock mining, solid waste management, major facility sites, and opencut mining. The largest source of state special revenue funding is from forfeited hard rock mining bonds followed by air quality operating fees, junk vehicle fees, and funding from the reclamation and development RIT account. Funding from EPA performance partnership grants provides the largest source of federal funds followed by the Department of State Lands reclamation account and the state revolving drinking water grant.

### LFD ISSUE

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

For further discussion of RIT funding sources, please see the RIT discussion in the Agency Overview section of the Department of Natural Resources and Conservation.

Present Law Adjustments										
-----Fiscal 2004-----					-----Fiscal 2005-----					
	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
Personal Services					1,697,316					1,695,265
Vacancy Savings					(317,551)					(317,471)
Inflation/Deflation					12,722					21,424
Fixed Costs					23,328					41,579
<b>Total Statewide Present Law Adjustments</b>					<b>\$1,415,815</b>					<b>\$1,440,797</b>
DP 18 - PCD Alternative Pay Plan Adjustments	0.00	(43,630)	(487,040)	(71,656)	(602,326)	0.00	(43,630)	(487,040)	(71,656)	(602,326)
DP 19 - PCD Administration Base Adjustment	0.00	0	9,926	0	9,926	0.00	0	9,926	0	9,926
DP 21 - Bond Forfeitures/Settlements - Restricted	0.00	0	20,800,000	0	20,800,000	0.00	0	(9,592,738)	0	(9,592,738)
DP 22 - MEPA Administration Base Adjustment	0.00	20,308	0	0	20,308	0.00	20,308	0	0	20,308
DP 23 - MEPA Projects Base Adjustment	0.00	0	548,421	0	548,421	0.00	0	(451,579)	0	(451,579)
DP 24 - Air Budget Adjustments	0.00	0	86,688	0	86,688	0.00	0	86,553	0	86,553
DP 25 - Hazardous Waste Base Adjustment	0.00	0	47,691	(24,097)	23,594	0.00	0	47,961	(23,984)	23,977
DP 26 - Asbestos Budget Adjustments	0.00	0	7,867	(6,052)	1,815	0.00	0	8,550	(6,077)	2,473
DP 27 - Junk Vehicle Base Adjustment	0.00	0	40,998	0	40,998	0.00	0	41,188	0	41,188
DP 28 - PWSS Base Adjustment	0.00	0	32	53,787	53,819	0.00	0	109	54,528	54,637
DP 29 - Solid Waste Base Adjustment	0.00	6,986	54,587	0	61,573	0.00	6,986	58,579	0	65,565
DP 30 - Water/Waste Water Operator Cert Base Adjustment	0.00	0	39,572	29,876	69,448	0.00	0	39,619	29,980	69,599
DP 31 - Hard Rock Base Adjustment	0.00	3,207	92,057	0	95,264	0.00	0	84,536	0	84,536
DP 32 - MFSA Administration Base Adjustment	0.00	(37,888)	0	0	(37,888)	0.00	(37,885)	0	0	(37,885)
DP 33 - MFSA Projects Base Adjustment	0.00	0	300,000	0	300,000	0.00	0	0	0	0
DP 34 - Hard Rock Debt Service Base Adjustment	0.00	0	5,500,000	0	5,500,000	0.00	0	0	0	0
DP 35 - Hard Rock Federal Funds Base Adjustment	0.00	0	0	4,000,000	4,000,000	0.00	0	0	0	0
DP 36 - Coal Program Base Adjustment	0.00	0	12,843	147,371	160,214	0.00	0	13,474	149,896	163,370
DP 37 - Opencut Program Base Adjustment	0.00	(18,012)	48,061	0	30,049	0.00	(17,410)	50,471	0	33,061
DP 38 - Subdivisions Base Adjustment	0.00	0	261,264	0	261,264	0.00	0	266,295	0	266,295
DP 39 - Water Permits Base Adjustment	0.00	4,031	27,985	15,116	47,132	0.00	4,677	32,991	17,537	55,205
DP 40 - PL Re-establish 1.00 FTE-CSB	1.00	0	28,947	15,238	44,185	1.00	0	30,200	15,706	45,906
DP 42 - PLBA - DW SRF Set Asides	3.00	0	0	240,000	240,000	3.00	0	0	240,000	240,000
DP 45 - Restore OTO-PLBA Asbestos Compliance	1.00	21,168	42,977	0	64,145	1.00	19,878	40,358	0	60,236
DP 46 - Restore OTO-PLBA-Haz Waste Contr Serv-Biennial	0.00	0	90,000	0	90,000	0.00	0	0	0	0
DP 47 - PLBA Water, Wastewater Exams	0.00	0	15,000	20,000	35,000	0.00	0	15,000	20,000	35,000
DP 48 - PLBA Operator Reimbursement Implementation	0.00	0	0	487,391	487,391	0.00	0	0	537,391	537,391
DP 50 - Restore OTO-PLBA Junk Vehicle Grants to Counties	0.00	0	113,888	0	113,888	0.00	0	133,866	0	133,866
DP 51 - Restore OTO-PLBA Abandoned Vehicle Reimbursements	0.00	0	172,230	0	172,230	0.00	0	172,230	0	172,230
DP 69 - Restore OTO PLBA Waste Management Database Dev	0.00	0	50,000	0	50,000	0.00	0	50,000	0	50,000
DP 70 - PLBA PCD Database Maintenance Contracts	0.00	0	121,862	27,000	148,862	0.00	0	121,861	27,000	148,861
DP 78 - PL Re-establish 1.0 FTE-Air, PWSS, Opencut										

Present Law Adjustments											
-----Fiscal 2004-----						-----Fiscal 2005-----					
	FTE	General	State Special	Federal Special	Total Funds		FTE	General	State Special	Federal Special	Total Funds
	1.00	2,269	34,601	8,508	45,378		1.00	2,263	34,511	8,486	45,260
DP 80 - Budget Amendment Adjustments											
	0.00	0	(44,651)	(1,972)	(46,623)		0.00	0	(44,651)	(1,975)	(46,626)
<b>Total Other Present Law Adjustments</b>	<b>6.00</b>	<b>(\$41,561)</b>	<b>\$28,015,806</b>	<b>\$4,940,510</b>	<b>\$32,914,755</b>		<b>6.00</b>	<b>(\$44,813)</b>	<b>(\$9,237,730)</b>	<b>\$996,832</b>	<b>(\$8,285,711)</b>
<b>Grand Total All Present Law Adjustments</b>					<b>\$34,330,570</b>						<b>(\$6,844,914)</b>

### Executive Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget made by the legislature. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Legislative decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

**DP 18 - PCD Alternative Pay Plan Adjustments** - The Executive Budget includes a request for a budget reduction to offset the increased costs associated with the agency-wide move to pay plan 20. The executive would reduce contracted services in the areas of training, information technology development and research; reduce future purchases of computers, field and office supplies; reduce the amount of travel; and, as a result of the move to pay plan 20, the executive is planning on fewer advertising costs due to improved recruitment and retention. In addition, the executive would rely on vacant positions to fund a portion of the cost.

#### LFD ISSUE

The executive is proposing to utilize vacant positions to fund the alternative pay plan. While using this method to fund the pay plan reduces expenditure in the short-run, in the long run the legislature will be faced with increased costs associated with personal services. Please see agency wide issues related to the move to pay plan 20.

**DP 19 - PCD Administration Base Adjustment** - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, this request would re-establish the base budget for operating expenses for the administrative unit of the division in the following areas: management assistance, supplies, travel, training for administrative staff, and consultant services.

#### LFD ISSUE

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

**DP 21 - Bond Forfeitures/Settlements - Restricted** - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, \$30.2 million of biennial authority would be used for reclamation of mine sites, with funding coming from bond forfeitures or settlement agreements. The total authority represents the amount of bonds held by the department plus any estimated settlements.

#### LFD COMMENT

The executive has requested that this authority be designated as restricted and biennial in nature.

DP 22 - MEPA Administration Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, adjustments would include increases in printing, office supplies, postage, advertising, and travel for consultation work with potential Environmental Impact Statement (EIS) applicants prior to the actual EIS preparation and contracts.

DP 23 - MEPA Projects Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, the adjustment would re-establish spending authority for consultant services for assistance on EIS's.

DP 24 - Air Budget Adjustments - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, the increases would include travel, supplies, communications, training and indirect charges due to vacancies. According to the executive, the program had several vacant FTE in fiscal 2002 that resulted in expenditure categories being under-spent. The executive is anticipating full staffing levels in the upcoming biennium.

**LFD  
ISSUE**

In this DP and in DPs 28, 29, 31, 36, 38, and 39 below, the executive has requested base adjustments to fully fund programs because of under-spending due to staff vacancies over the last couple of biennia. The department expects to see fewer vacancies because of the implementation of pay plan 20. The legislature may wish to direct the department to track recruitment and retention trends now that they have moved to pay plan 20. If recruitment and retention improves, the legislature might expect to see fewer "base adjustment" decision packages in future biennia. For further discussion of pay plan 20 and base adjustments, please see the agency overview section.

DP 25 - Hazardous Waste Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, the base adjustment would reduce computer purchases and an increase in indirect expenditures in anticipation of full staffing.

DP 26 - Asbestos Budget Adjustments - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, the adjustment would increase overtime and indirect charges.

DP 27 - Junk Vehicle Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, base adjustments would increase overtime, pay for vehicle crushing, provide additional legal fees, increase travel, pay for non-department meeting rooms, maintain an aging vehicle, and pay for increasing indirect costs.

DP 28 - PWSS Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, base adjustments would be used for personal services and operating expenses due to extended program vacancies that occurred as a result of an inability to attract qualified applicants to the program. The executive anticipates staffing to return to full levels.

**LFD  
ISSUE**

See the discussion under DP 24

DP 29 - Solid Waste Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, base adjustments would be used for personal services and operating expenses due to program vacancies. The executive anticipates staffing to return to full levels.

**LFD  
ISSUE**

See the discussion under DP 24

DP 30 - Water/Waste Water Operator Cert Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, in addition to the request for operating expenses and travel, the adjustment would include a correction of a data entry error. A portion of this base adjustment request (\$42,234) was entered in the Public Water Supply Program request. This request has been amended to reincorporate this amount while the Public Water Supply Program base adjustment request has been reduced by this amount.

DP 31 - Hard Rock Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. According to the executive, base adjustments are being requested to cover full staffing levels that are anticipated for the fiscal 2005 biennium, an increase in indirect costs, anticipated costs of printing and photocopying, and additional vehicle repairs and maintenance.

**LFD  
ISSUE**

See the discussion under DP 24

**LFD  
ISSUE**

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

DP 32 - MFSA Administration Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated such as books, leased vehicles, and administration costs. Also included is a continuation of a 17-7-140, MCA, reduction of \$54,000 in each fiscal year. Although increases are included, the net impact of this decision package is a net general fund reduction.

**LFD  
COMMENT**

The primary reduction goals established through implementation of 17-7-140 (spending reductions), MCA, in this program were to reduce division operating expenses, travel, supplies, temporary services, communications, and staff training. According to the executive, mitigation measures will include continued use of older supplies and equipment by increasing maintenance, combining trips, and seeking more on-line and/or sponsor-provided training.

DP 33 - MFSA Projects Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. Power generation projects are pending in the department. The department would use the authority to review plans for proposed facilities in an effort to comply with mandatory review time frames. If approved, this authority would be used for future Major Facility Siting Act projects with funding collected from MFSA fees.

**LFD  
COMMENT**

At the request of the executive, the legislature may wish to designate authority as restricted and biennial in nature.



DP 34 - Hard Rock Debt Service Base Adjustment - The Executive Budget includes a request for authority to spend money raised through the sale of hard-rock mining reclamation bonds authorized by SB 484 in the 2001 legislative session on reclamation of mine sites. The executive is requesting state special revenue authority of \$5.5 million for these purposes.

DP 35 - Hard Rock Federal Funds Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, authority would be used for reclamation of mine sites and will be funded by various federal sources such as the United States Forest Service, Bureau of Land Management, Environmental Protection Agency, and the Corps of Engineers.

**LFD  
COMMENT**

The executive requests that this authority be designated as restricted and biennial in nature.

DP 36 - Coal Program Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, authority would be used for supplies, travel for inspections, and indirect costs due to vacancies and extended leave, rent increase in the Billings office, and vehicle maintenance with the funding for the adjustment at 80 percent federal, 20 percent RIT.

**LFD  
ISSUE**

See the discussion under DP 24.

**LFD  
ISSUE**

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

DP 37 - Opencut Program Base Adjustment - The Executive Budget includes a request for a base increase to restore fiscal 2002 authorized amounts in areas where increased expenditures are anticipated. If approved, authority would be used for overtime, microfilming, work study, temporary services, contracted services for hydrology and wildlife expertise, communications, increased use of motor pool lease vehicles, and other indirect costs. In addition, this adjustment replaces general fund with reclamation and development funds.

**LFD  
ISSUE**

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

DP 38 - Subdivisions Base Adjustment - The Executive Budget includes a request for authority for program costs and costs to reimburse counties for subdivision reviews. If approved, the authority would be used for overtime, increases in supplies, communications, travel due to vacancies, and restoration of costs of paying counties for subdivision reviews.

**LFD  
ISSUE**

See the discussion under DP 24

DP 39 - Water Permits Base Adjustment - The Executive Budget includes a request for a base adjustment to address program costs due to vacancies. The 2001 legislature authorized funding for 4.00 new FTE in the Permitting Program. According to the executive, there was a delay in hiring these FTE that resulted in an under-spending of operating costs.

**LFD  
ISSUE**

See the discussion under DP 24

DP 40 - PL Re-establish 1.00 FTE-CSB - The Executive Budget includes a request to re-establish a position that was deleted from the base budget during the 2001 legislature because of an extended vacancy. According to the executive, this position has been reprioritized and would be utilized to create a bureau-wide fiscal coordinator position that would coordinate and unify fiscal activity within the Community Services Bureau. The funding for the diverse programs in the bureau is very complex. Sources of funding include general fund, licensing and service fees, federal grants and set-asides, and recycling revenues. The goal of the proposed fiscal coordinator position would be to reduce the time to track and monitor budgets and fiscal status of the various programs and coordinate fiscal and support activities between different programs.

DP 42 - PLBA - DW SRF Set Asides - The Executive Budget includes a request for spending authority for additional federal state revolving funds to implement the federal Safe Drinking Water Act. Amendments to the original act increased state requirements for public drinking water systems on an annual basis. If approved, this request would add 3.00 FTE and fund increased expenditures for contracted services to provide on-site technical assistance and training for system operators. The FTE would be used to implement new rules and regulations and to provide assistance and technical advice to water system owners and operators implementing the requirements.

DP 45 - Restore OTO-PLBA Asbestos Compliance - The Executive Budget includes a request for funding for 1.00 FTE that would be used as an asbestos compliance specialist to address non-compliance concerns and increased workload. If approved, the FTE would be utilized to: 1) manage the asbestos accreditation process; 2) conduct administrative aspects of the program including tracking of annual and project permitting and course review approvals; 3) maintain program databases for record keeping and reporting; and 4) develop and deliver public outreach associated with asbestos abatement procedures and related compliance assistance activities. This was approved as a one-time-only (OTO) appropriation during the last legislative session and this is an on-going activity, the executive is requesting that the funding for this FTE be made permanent.

DP 46 - Restore OTO-PLBA-Hazardous Waste Contr Serv-Biennial - The Executive Budget includes a request to re-establish OTO funding for the Hazardous Waste for contracted technical assistance. Funding is proposed to come from hazardous waste fees. If approved, the authority would be used for contracted services to review new hazardous waste permit applications and ongoing permit and corrective action activities. Contractors would investigate facility background, review plans to characterize release of hazardous waste to land, water, or air, identify contaminant sources, prepare human health and ecological risk assessments, and verify data quality. This is not an on-going activity.

**LFD  
COMMENT**

Executive revenue estimates for this fund indicate a large permit fee of approximately \$187,000 will be paid in fiscal 2004. An analysis of the hazardous waste fees fund indicates that if the additional application fee does not arrive in the biennium, an appropriation of the level proposed could not be supported by this funding source. However, the department has indicated that this permit revenue is likely to happen. Because this is not an on-going activity, the legislature may wish to attach a designation of OTO to reflect the one-time nature of the project.

DP 47 - PLBA Water, Wastewater Exams - The Executive Budget includes a request for authority to obtain contracted services in the Operator Certification Program. According to the executive, part of the Operator Certification Program approval by EPA materials used to certify operators of public water and wastewater systems must be regularly updated to include the latest regulations and techniques. If approved, this expenditure request would provide spending authority for contracted services to update the exams and study guides. Funding would be obtained from Drinking Water State Revolving Fund (SRF) set-aside grants and operator certification fees.

DP 48 - PLBA Operator Reimbursement Implementation - The Executive Budget includes a request for base increases to fully implement the Operator Reimbursement Program. This was a new program during fiscal 2002 and base expenditures were very low. If approved, funding would be used for other services, supplies, communications, travel, and other expenses. Final program and grant approval and award by EPA for this program were not received until late in the base year. Therefore, it was not possible to implement the program in time for a full year of operation and expenditures. Now that the grant award has been received, the program is able to begin full operations and reimbursement of training and certification costs for water and wastewater operators. Funding is 100 percent federal.

DP 50 - Restore OTO-PLBA Junk Vehicle Grants to Counties - The Executive Budget includes a request to provide grants to counties for administration of local junk vehicle programs. According to the executive, the number of vehicles registered in Montana increases approximately 1.2 percent annually and is requesting that grant funding to the counties be increased by that amount. In addition, the executive is requesting that this funding be made permanent.

DP 51 - Restore OTO-PLBA Abandoned Vehicle Reimbursements - The Executive Budget includes a request to re-establish spending authority for the Abandoned Vehicle Reimbursement Program to meet the \$0.15 set-aside mandated by HB 124 in the last session. HB 124 states that \$1 for each passenger car or truck under 8,001 pounds gross vehicle weight that is registered for licensing must be paid to the motor vehicle recycling and disposal program. Of each dollar, 15 cents must be used for the purpose of reimbursing the hired removal of abandoned vehicles. According to the executive, this is an ongoing program, and if approved, is requesting that spending authority no longer be classified as one-time-only.

DP 69 - Restore OTO PLBA Waste Management Database Dev - The Executive Budget includes a request for database maintenance and enhancements for the recently developed enterprise-wide databases within the Waste Management Section. The conversion of the Waste Management Section's database from AREV to an Oracle based system was completed in the 2003 biennium. If approved, the executive anticipates spending an additional \$50,000 per year from the junk vehicle disposal fee for the next two fiscal years for database modification, integration, and maintenance.

DP 70 - PLBA PCD Database Maintenance Contracts - The Executive Budget includes a request for database maintenance and enhancements for the recently developed enterprise-wide databases within the Permitting Division. Over the past two biennia, the Air, Hazardous Waste, Asbestos, Hard Rock Mining, Coal Mining, Opencut Mining, Subdivision, Water Discharge Permitting, and Public Water Supply programs have or are currently updating their databases to an ORACLE based system. According to the executive, each of these databases are expected to need refinement, updating for tracking and reporting, minor repairs to correct program "bugs" identified during normal operations, minor modifications to address change program priorities or business practices, and system modifications to provide additional functionality to the department, the public, and the regulated community. The databases are used to track environmental conditions such as air emissions and water discharges, fees, permits, compliance activities, licenses, and accreditations. If approved, funding would come from a variety of sources including, subdivision plat review, reclamation and development, hazardous waste - Cercla, asbestos control, air quality fees, and EPA grants.

**LFD  
ISSUE**

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

**LFD  
ISSUE**

Part of overall database development within the department would include ongoing maintenance costs. For a further discussion of database development and maintenance costs, please see the agency overview section.

**DP 78 - PL Re-establish 1.0 FTE-Air, PWSS, Opencut** - The Executive Budget includes a request to re-establish funding for an FTE that was removed from the base budget by the 2001 legislature because of extended vacancies. The department would use the position for the following: 1) increase an administrative support .75 FTE to 1.00 FTE in the Public Water Supply program; 2) increase an administrative support .50 FTE to .75 FTE in the Industrial and Energy Minerals Bureau; and 3) create .50 FTE in the Air and Waste Management Bureau to provide assistance to energy facilities in the preparation and submittal of air quality permit applications and for the issuance of those permits.

**LFD  
ISSUE**

This program proposes to use a Resource Indemnity Trust (RIT) funding source (reclamation and development account). This account is projected to have a significant negative ending balance for the 2005 biennium. For a further discussion of RIT funding sources, please see the RIT discussion in the agency overview section of the Department of Natural Resources and Conservation.

**DP 80 - Budget Amendment Adjustments** - The Executive Budget includes a request for a technical adjustment to correct a clerical error. According to the executive, expenditures were improperly recorded to a budget amendment reporting level in the state accounting system in error.

New Proposals										
Program	Fiscal 2004					Fiscal 2005				
	FTE	General	State Special	Federal Special	Total Funds	FTE	General	State Special	Federal Special	Total Funds
DP 59 - NP-Homeland Security, Water System Security										
50	1.00	0	0	150,000	150,000	1.00	0	0	150,000	150,000
DP 201 - 50 Move MEPA to Program 10										
50	(3.00)	(153,126)	(1,000,000)	0	(1,153,126)	(3.00)	(153,052)	0	0	(153,052)
DP 7029 - Solid Waste General Fund Reduction										
50	0.00	(40,000)	40,000	0	0	0.00	(40,000)	40,000	0	0
DP 7039 - Water Permits Funding Adjustments										
50	0.00	(36,500)	36,500	0	0	0.00	(36,500)	36,500	0	0
<b>Total</b>	<b>(2.00)</b>	<b>(\$229,626)</b>	<b>(\$923,500)</b>	<b>\$150,000</b>	<b>(\$1,003,126)</b>	<b>(2.00)</b>	<b>(\$229,552)</b>	<b>\$76,500</b>	<b>\$150,000</b>	<b>(\$3,052)</b>

**New Proposals**

The "New Proposals" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

**DP 59 - NP-Homeland Security, Water System Security** - The Executive Budget includes a request for authority to implement water system security planning. If approved, this request would fund 1.00 FTE to work with water system operators to assess system vulnerability and to establish contracts for technical assistance and training for the facility owners and operators. The U.S. Congress has proposed several different funding and grant appropriations to allow states to assist water systems in protecting their systems.

DP 201 - 50 Move MEPA to Program 10 - The Executive Budget includes a request for authority to conduct an internal reorganization by moving the MEPA Program from Permitting & Compliance to Centralized Services. NP 200 in the Centralized Services Division is a similar request that would complete the reorganization.

DP 7029 - Solid Waste General Fund Reduction - The Executive Budget includes a request to reduce the general fund appropriation in the Solid Waste program by \$40,000 in each year of the biennium through a funding switch. If approved, the adjustment would be accomplished by switching 8 percent of position 00421 (Solid Waste program) and 47 percent of position 00020 (Solid Waste Program) to the Junk Vehicle Program.

DP 7039 - Water Permits Funding Adjustments - The Executive Budget includes a request to reduce the general fund appropriation through a funding switch within the Water Permits Section. This adjustment would reduce general fund authority and increase state special revenue authority by \$36,500 in each fiscal year. Approximately \$36,500 in groundwater permit fees are deposited into the permit program fund (02278) that replaces this general fund.